

IOWA PUBLIC INFORMATION BOARD

MEMBERS

Daniel Breitbarth, Des Moines (Government Representative, 2022-2026)

Joan Corbin, Pella (Government Representative, 2020-2024)

E. J. Giovannetti, Urbandale (Public Representative, 2022-2026)

Barry Lindahl, Dubuque (Government Representative, 2020-2024)

Joel McCrea, Pleasant Hill (Media Representative, 2022-2026)

Monica McHugh, Zwingle (Public Representative, 2022-2026)

Julie Pottorff, Des Moines (Public Representative, 2020-2024)

Jackie Schmillen, Urbandale (Media Representative, 2022-2026)

vacant

STAFF

Erika Eckley, Executive Director

Brett Toresdahl, Deputy Director

Daniel Strawhun, Legal Counsel

Use the following link to watch the IPIB meeting live:

<https://youtube.com/@IowaPublicInformationBoard>

Note: If you wish to make public comment to the Board, please send an email to IPIB@iowa.gov prior to the meeting.

Agenda

February 15, 2024, 11:00 a.m.

2nd Floor N/S Conference Room

Wallace Building

502 East 9th Street, Des Moines

11:00 AM – IPIB Meeting

- I. Approval of agenda*
- II. Approval of the January 18, 2024 minutes *
- III. Public Forum (5-minute limit per speaker)
- IV. Comments from the board chair. (McHugh)

- V. Advisory Opinion – Deliberation/Action.
 1. **24AO:0001** – Chapter 21 – Notices for Work Sessions – 1/3/24 - *

- VI. Cases involving Board Deliberation/Action. (Eckley)
 1. **23FC:0082** Mellisa Mattingly – Both Chapters – McCallsburg City Council – 8/3/23 – * Final Report
 2. **23FC:0096** Leslie Wiles – Chapter 21 – Redfield Public Library 10/9/23 – and **23FC:0097** Pauletta Cox – Chapter 21 – Redfield Public Library 10/9/23 – * Final Report
 3. **23FC:0100** Travis Johnson – Chapter 21 – Eddysville Blakesburg Fremont CSD Board 10/18//23 – * Informal Report
 4. **23FC:0101** Braxton Morrison – Chapter 21 – Benton Co. Supervisors 10/18/23; **23FC:0102** Maggie Mangold – Chapter 21 – Benton Co. Supervisors 10/19/23; **23FC:0107** Dana Sanders – Both Chapters – Benton Co. Board of Supervisors 10/31/23; **23FC:0108** Kurt Karr 11/1/23; **23FC:0109** Valerie Close

11/3/23; **23FC:0110** Maggie Mangold 11/3/23; **23FC:0111** Kaitlin Emrich 11/4/23; **23FC:0112** Lu Karr 11/4/23; **23FC:0113** Molly Rach 11/5/23; **23FC:0121** Adam Carros – Chapter 21 – Benton Co. Bd. of Supervisors 11/17/23 – * Consolidation & Acceptance

5. **23FC:0114** John Bandstra – Chapter 21 – South Central Regional Airport Agency 11/6/23; **23FC:0115** Bert Bandstra – Chapter 21 – South Central Regional Airport Agency 11/10/23; **23FC:0122** Jack Rempe – Chapter 21 – South Central Regional Airport Agency 11/17/23; **23FC:0123** Drew McGee – Chapter 21 – South Central Regional Airport Agency 11/17/23 – * Consolidation & Acceptance
6. **23FC:0118** Leah Schwery – Both Chapters – City of Ute 11/9/23 – * Acceptance
7. **23FC:0126** Tracy Stillwell – Chapter 22 – Hampton Public Library 11/19/23 – * Acceptance
8. **23FC:0131** Amy McCabe – Chapter 22 – Pleasant Valley School District 11/27/23 – * Dismissal
9. **23FC:0134** Todd Oetken – Chapter 22 – Iowa Dept. of Education – 12/11/23 – * Dismissal
10. **23FC:0137** Adam Callanan – Chapter 21 – Des Moines City Council – 12/21/23- * Dismissal
11. **24FC:0007** Mathew Boon – Chapter 22 – Fort Madison Police Dept. – 1/17/24 – * Dismissal

VII. Matters Withdrawn, No Action Necessary. (Eckley)

1. **23FC:0135** Andrew Keller – Chapter 22 – City of Webster City – 12/20/23 – * withdrawn
2. **24FC:0012** Diane Holst – Chapter 22 – Secretary of State – 2/1/24 – * withdrawn

VIII. Pending Complaints. Informational Only (Eckley)

1. **23FC:0053** Debra Schiel-Larson – Both Chapters – Indianola Community School District – 5/1/23 pending
2. **23FC:0060** Dina Raley - Chapter 22- Delaware County Sheriff 6/16/2023 - Pending
3. **23FC:0074** Chad Miller - Chapter 21- Scott County Board of Review 7/18/2023 – Pending
4. **23FC:0083** Brendan Chaney – Chapter 21 – City of Iowa Falls – 8/14/23 – Pending
5. **23FC:0105** Jeff Law/Kourtnee Mammen – Chapter 21 – River Valley School Board 10/29/23 – pending
6. **23FC:0119** Richard Hageman – Both Chapters – City of Ute 11/9/23 – Information Gathering
7. **23FC:0127** Hendrik van Pelt – Chapter 22 – City of Clive 11/22/23 – Drafting
8. **23FC:0130** Keegan Jarvis – Chapter 21 – Swan City Council 11/27/23 – pending
9. **23FC:0133** Matthew Knowles – Chapter 22 – Crawford Co. Attorney – 12/7/23 – Information Gathering
10. **24FC:0001** Steve St.Clair – Chapter 21 – Winneshiek Co. Bd of Supervisors – 1/3/24 – Information Gathering
11. **24FC:0003** Andrew Kida – Chapter 22 – Clinton County – 1/6/24 – Information Gathering
12. **24FC:0004** Janelle Lund – Chapter 21 – Cedar Rapids Community School District – 1/5/24 – Information Gathering
13. **24FC:0005** Jon Uhl – Chapter 21 – City of Davenport – 1/10/24 – Information Gathering
14. **24FC:0006** Cheryl Shagens – Both Chapters – City of Davenport – 1/10/24 – Information Gathering
15. **24FC:0008** Jeff Sherman - Chapter 21 – Floyd County Bd of Supervisors – 1/22/24 – Information Gathering
16. **24FC:0009** Brett Christensen – Chapter 21 – City of Silver City – 1/23/24 – Information Gathering
17. **24FC:0010** Tirzah Wedewer – Chapter 21 – Manchester City Council – 1/29/24 – Information Gathering
18. **24FC:0011** Frederick Shaddock – Chapter 22 – Fairfield Police Department -1/30/24 – Information Gathering
19. **24FC:0013** Bonnie Castillo – Both Chapters – Union Co. Emergency Management Agency – 2/2/24 – Information Gathering
20. **24FC:0014** Keegan Jarvis – Chapter 22 – Swan City Council – 2/6/24 – Information Gathering
21. **24FC:0015** Kelly Smith – Chapter 22 – Pleasant Valley Community School District – 2/7/24 – Information Gathering

22. 24FC:0016 Valerie Close – Chapter 21 – Benton Co. Board of Supervisors – 2/8/24 – Information Gathering

IX. Committee Reports

1. Communications – (Toresdahl) – Meeting February 15, 2024
2. Legislative – (Eckley)
3. Rules – (Strawhun)

X. Office status report.

1. Office Update * (Eckley) - Financial Disclosure reminder
2. Financial/Budget Update (FY23) * (Toresdahl)
3. Presentations/Trainings (Eckley) – County Assessors Group
4. District Court Update (Strawhun)

XI. Next IPIB Board Meeting will be held in the Wallace Building, 3rd Floor, E/W Conference Room
March 21, 2024 at 1:00 p.m.

XII. Adjourn

*** Attachment**

IPIB Communications Committee meeting at 1:30p.m. or immediately following the Board meeting in the IPIB Office Conference Room.

IOWA PUBLIC INFORMATION BOARD

January 18, 2024

Unapproved Minutes

The Board met on January 18, 2024 for its monthly meeting at 1:00 in the 3rd floor E/W Conference Room in the Wallace Building with the following members participating: Daniel Breitbarth, Des Moines (arrived @1:12pm); Joan Corbin, Pella (arrived @1:06pm); E. J. Giovannetti, Urbandale (google meets); Barry Lindahl, Dubuque (google meets); Joel McCrea, Pleasant Hill; Monica McHugh, Zwingle; Julie Pottorff, Des Moines; Jackie Schmillen, Urbandale (google meets). Also present were IPIB Executive Director Erika Eckley; Brett Toresdahl, Deputy Director. A quorum was declared present.

Others identified present or by phone: Scott Flynn, Brett Niteschke, Todd Banner, Michael Merritt, Nicholas Bailey, Ryan Jacobson, Hendrik van Pelt, Joe Foran, Kristi Latta, Melanie Rogotzke, Jessica Grove, Jody Hayes, Kourney Mammen.

On a **motion** by McCrea, **second** by Pottorff, the agenda was unanimously adopted 6-0.

On a **motion** by Giovannetti, **second** by Lindahl, to approve the December 21, 2023 minutes. Unanimously adopted 6-0.

Public Forum – None

Board Chair Comments – McHugh brought to attention that several Board positions will be expiring and if interested in continuing, the Governor’s Office must be notified.

Advisory Opinions – No action

1. **24AO:0001** – Chapter 21 – Notices for Budget Work Sessions – 1/3/24 – Pending

Note: *Corbin joined the meeting at 1:06pm*

Note: *Brietbarth joined the meeting at 1:12pm*

The board was briefed on cases and took action as indicated:

1. 23FC:0086 Todd Banner – Chapter 22 – Iowa State University – 8/23/23 – Todd Banner spoke. A motion by Pottorff and second by Corbin to approve the dismissal order. Approved, 7-0, with Breitbarth abstaining.
2. 23FC:0096 Leslie Wiles – Chapter 21 – Redfield Public Library 10/9/23 – and 23FC:0097 Pauletta Cox – Chapter 21 – Redfield Public Library 10/9/23 – A motion by McCrea and second by Breitbarth to approve the informal resolution report. Unanimously approved, 8-0.
3. 23FC:0098 Joseph Foran – Chapter 21 – Audubon City Council 10/10/23 – Joseph Foran and Ted Wonio spoke. A motion by Breitbarth and second by Pottorff to approve the dismissal order. Approved, 7-1, with Corbin voting nay.
4. 23FC:0104 Hendrik van Pelt – Chapter 22 – City of West Des Moines 10/25/23 – Hendrick van Pelt and Jessica Grove spoke. A motion by Breitbarth and second by Lindahl to approve the dismissal order. Unanimously approved, 8-0.

5. 23FC:0105 Jeff Law/Kourtnee Mammen – Chapter 21 – River Valley School Board 10/29/23 – Kourtney Mammen and Kristi Latta spoke. A motion by Pottorff and second by Corbin to approve the acceptance order. Unanimously approved, 8-0.
6. 23FC:0117 Ellen O’Mally – Chapter 21 – Pleasant Grove Trustees 11/9/23 - A motion by Breitbarth and second by Giovannetti to approve the dismissal order. Unanimously approved, 8-0.
7. 23FC:0125 Adam McCall – Chapter 22 – City of Elk Horn 11/17/23 – A motion by Breitbarth and second by McCrea to approve the dismissal order. Unanimously approved, 8-0.
8. 23FC:0128 Scott Flynn – Chapter 22 – Mid-Prairie Comm. School District 11/17/23 – Scott Flynn and Brett Nitzschke spoke. A motion by Breitbarth and second by Lindahl to approve the dismissal order. Unanimously approved, 8-0.
9. 23FC:0130 Keegan Jarvis – Chapter 21 – Swan City Council 11/27/23 – Nicholas Bailey spoke. A motion by Corbin and second by Lindahl to approve the acceptance order. Unanimously approved, 8-0.
10. 23FC:0132 Michael Merritt – Chapter 22 – Powesheik County 11/25/23 – Michael Merritt spoke. A motion by Breitbarth and second by McCrea to approve the dismissal order. Unanimously approved, 8-0.
11. 23FC:0136 Vickie Garske – Chapter 21 – Montour City Council – 12/19/23 – A motion by Breitbarth and second by Lindahl to approve the dismissal order. Unanimously approved, 8-0.

Matters Withdrawn. No Action -

1. 23FC:0056 Ruth Bolinger - Chapter 21- Creston City Council 5/22/2023 – withdrawn
2. 24FC:0002 Cliff Sheakley – Chapter22 – Pocahontas County Assessor – 1/5/24 – withdrawn

Pending complaints that required no board action. Informational

1. **23FC:0053** Debra Schiel-Larson – Both Chapters – Indianola Community School District – 5/1/23 pending
2. **23FC:0060** Dina Raley - Chapter 22- Delaware County Sheriff 6/16/2023 - Pending
3. **23FC:0074** Chad Miller - Chapter 21- Scott County Board of Review 7/18/2023 – Pending
4. **23FC:0082** Mellisa Mattingly – Both Chapters – McCallsburg City Council – 8/3/23 – Pending
5. **23FC:0083** Brendan Chaney – Chapter 21 – City of Iowa Falls – 8/14/23 – Pending
6. **23FC:0100** Travis Johnson – Chapter 21 – Eddysville Blakesburg Fremont CSD Board 10/18//23 – Pending
7. **23FC:0101** Braxton Morrison – Chapter 21 – Benton Co. Supervisors 10/18/23;
 23FC:0102 Maggie Mangold – Chapter 21 – Benton Co. Supervisors 10/19/23;
 23FC:0107 Dana Sanders – Both Chapters – Benton Co. Board of Supervisors 10/31/23;
 23FC:0108 Kurt Karr 11/1/23; 23FC:0109 Valerie Close 11/3/23; 23FC:0110 Maggie Mangold 11/3/23; 23FC:0111 Kaitlin Emrich 11/4/23; 23FC:0112 Lu Karr 11/4/23;
 23FC:0113 Molly Rach 11/5/23; 23FC:0121 Adam Carros – Chapter 21 – Benton Co. Bd. of Supervisors 11/17/23 – Consolidation

8. **23FC:0114** John Bandstra – Chapter 21 – South Central Regional Airport Agency 11/6/23; **23FC:0115** Bert Bandstra – Chapter 21 – South Central Regional Airport Agency 11/10/23; **23FC:0122** Jack Rempe – Chapter 21 – South Central Regional Airport Agency 11/17/23; **23FC:0123** Drew McGee – Chapter 21 – South Central Regional Airport Agency 11/17/23 – Consolidation
9. **23FC:0118** Leah Schwery – Both Chapters – City of Ute 11/9/23 – Information Gathering
10. **23FC:0119** Richard Hageman – Both Chapters – City of Ute 11/9/23 – Information Gathering
11. **23FC:0126** Tracy Stillwell – Chapter 22 – Hampton Public Library 11/19/23 –
12. **23FC:0127** Hendrik van Pelt – Chapter 22 – City of Clive 11/22/23 –
13. **23FC:0131** Amy McCabe – Chapter 22 – Pleasant Valley School District 11/27/23 – Information Gathering
14. **23FC:0133** Matthew Knowles – Chapter 22 – Crawford Co. Attorney – 12/7/23 – Information Gathering
15. **23FC:0134** Todd Oetken – Chapter 22 – Iowa Dept. of Education – 12/11/23 – Information Gathering
16. **23FC:0135** Andrew Keller – Chapter 22 – City of Webster City – 12/20/23 – Information Gathering
17. **23FC:0137** Adam Callanan – Chapter 21 – Des Moines City Council – 12/21/23- Information Gathering
18. **24FC:0001** Steve St.Clair – Chapter 21 – Winneshiek Co. Bd of Supervisors – 1/3/24 – Information Gathering
19. **24FC:0003** Andrew Kida – Chapter 22 – Clinton County – 1/6/24 – Information Gathering
20. **24FC:0004** Janelle Lund – Chapter 21 – Cedar Rapids Community School District – 1/5/24 – Information Gathering

Committee Reports

1. Communications – Meeting prior to next Board meeting in February.
2. Legislative – Currently following: HF2062 – Penalties/Training Requirements, HSB531 – Booking Photos, HF333 – 60 to 90 Days, HF350 – Promptly Responding. A Legislative Committee meeting will be scheduled for January 25, 2024. Eckley will send a list of current bills and status to the Board.
3. Rules – Strawhun provided a menu for the process of the Red-Tape review for the Board and committee to consider.

Updates for the board.

- a. Eckley provided an office update and current statistics.
- b. The 2023 IPIB Annual Report was shared with the Board. On a motion by Pottorff and a second by McCrea, the annual report was approved with minor changes. Unanimously approved 8-0.
- c. Toresdahl shared the FY24 financials.
- d. Upcoming presentations:
 - City of Elgin
 - County Assessors Group

- Drake Journalism Class
- e. A district court case:
 - Ward appeal – an answer has been filed.
 - Swarm case – hearing scheduled for January 25, 2024.

The next IPIB meeting will be in the Wallace Building, **2nd Floor, N/S Conference Room**, February 15, 2024 at 11:00 a.m.

At 3:00 p.m. the meeting adjourned on a motion by McCrea and a second by Pottorff. Unanimously approved.

Respectfully submitted
Brett Toresdahl, Deputy Director

IPIB, Chair
Approved



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Des Moines, Iowa 50319
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Executive Director
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Advisory Opinion 24AO:0001

DATE: January 3, 2024

SUBJECT: Chapter 21 requirements for “work sessions”

This opinion concerns the open meeting requirements for work sessions under Iowa Code § 21.3. Advisory opinions may be adopted by the board pursuant to Iowa Code section 23.6(3) and Rule 497–1.2(2): “[t]he board may on its own motion issue opinions without receiving a formal request.” We note at the outset that IPIB’s jurisdiction is limited to the application of Iowa Code chapters 21, 22, and 23, and rules in Iowa Administrative Code chapter 497. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

QUESTION POSED:

I am looking for an opinion on what information is required to be kept during budget sessions and work sessions for counties. Are they required to keep minutes or record the sessions? I am very interested when it comes to counties and cities and what the practice should be. I have heard that elected officials, specifically our county auditor, have removed staff from meetings in our county and told that the following information they were not allowed to hear. This comes directly from another elected county official. It is my understanding that this budget work session meeting was open to the public. Do these meetings also require notice?

OPINION:

The first question is whether a “work session” or a “budget session”¹ is a meeting under Iowa Code chapter 21.

A “[m]eeting’ means a gathering in person or by electronic means, formal or informal, of a majority of the members of a governmental body where there is deliberation or action upon any matter within the scope of the governmental body’s policy-making duties. Meetings shall not include a gathering of members of a governmental body for purely ministerial or social purposes when there is no discussion of policy or no intent to avoid the purposes of this chapter.” Iowa Code § 21.2.

¹ There are specific notice and public meeting requirements for finalizing and approving budgets by local governments outside chapter 21, which are beyond the jurisdiction of the Iowa Public Information Board. This advisory opinion is focused on meetings of government bodies to prepare and deliberate on the budget or other types of meetings in which there is deliberation on policy issues by a government body.

Board Members

Daniel Breitbarth ● Joan Corbin ● E. J. Giovannetti ● Barry Lindahl ● Joel McCrea
Monica McHugh ● Julie Pottorff ● Jackie Schmillen ● vacant

A work session or budget session would qualify as a meeting under Iowa Code chapter 21 when the following factors exist. These are:

1. Members of a governmental body, as defined under Iowa Code § 21.2, meet;
2. This meeting is in person or by electronic means;
3. A majority of the governmental body is in attendance;
4. There is deliberation or action taken by the body; and
5. The deliberation or action is within the body's policy-making duties.

A session to work on the budget in which a majority of the governmental body members attend, would likely be considered a meeting under Iowa Code § 21.2. It would be difficult to find that a meeting to discuss the county budget, a key responsibility of the board,² would not require deliberation on a topic clearly within that government body's policy-making duties.

In *Hawkeye Communications, Inc. v. Carlson*, 2005 WL 3940279 (Iowa App. Dec. 21, 2005), the appellate court affirmed a violation of Iowa Code chapter 21 when a majority of the county board of supervisors met in two improperly noticed meetings to work on the county budget. The supervisors argued there should be no violation of the open meetings law because no formal action was taken until the rescheduled and noticed meeting that afternoon. The court rejected the argument and held that the gatherings were "meetings" under Iowa Code chapter 21 because they were gatherings of a majority of the government body in which they deliberated on the county budget, which is a topic within the scope of the board of supervisors' policy-making duties.

When a "work session" or a "budget session" is a meeting, what notice is required under Iowa Code chapter 21?³

"Meetings of governmental bodies shall be preceded by public notice as provided in section 21.4." Iowa Code § 21.3(1). The violation in *Hawkeye Communications* occurred because the board had provided notice that the meeting would be rescheduled, but the board of supervisors met at the previously scheduled meeting time anyway. A work session is a meeting that requires appropriate notice under Iowa Code § 21.4.

"[A] governmental body shall give notice of the time, date, and place of each meeting including a reconvened meeting of the governmental body, and the tentative agenda of the meeting, in a manner reasonably calculated to apprise the public of that information. Reasonable notice shall include advising the news media who have filed a request for notice with the governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held." Iowa Code § 21.4(1). "[N]otice conforming with all of the requirements of subsection 1 shall be given at least twenty-four hours prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given." Iowa Code § 21.4(2)(a).

Notice for a work session must be provided at least twenty-four hours in advance of the meeting and must include the date, time, and place of the meeting as well as information about all items to be considered by the government body in a way the public has notice regarding what will be discussed at the meeting.

² See Iowa Code § 331.434.

³ This advisory opinion is regarding work sessions to develop a budget or other policy, but just as a reminder "the notice requirements for a public meeting under Iowa Code § 21.4 do not take the place of the notice requirements under Iowa Code § 331.434 concerning public hearings although the reverse is true." 15AO:0002 Is Chapter 21 Public Meeting Notice the Same as Notice Required for a County Public Hearing?

Who may attend a “work session” or a “budget session”?

No matter what the gathering is called, if there is deliberation or action upon any matter within the scope of the body’s policy-making duties by a majority of the members, it is considered a meeting and must be open.

“Meetings of governmental bodies ... shall be held in open session unless closed sessions are expressly permitted by law. Except as provided in section 21.5, all actions and discussions at meetings of governmental bodies, whether formal or informal, shall be conducted and executed in open session.” Iowa Code § 21.3(1).

“‘Open session’ means a meeting to which all members of the public have access.” Iowa Code § 21.2(3).

“The purpose of open meetings statutes is to require meetings of governmental bodies to be open and permit the public to be present.” *KCOB/KLVN, Inc. v. Jasper Cnty. Bd. of Sup'rs*, 473 N.W.2d 171, 173 (Iowa 1991) (citing *Dobrovolny v. Reinhardt*, 173 N.W.2d 837, 840–41 (Iowa 1970)). A work session or a budget session that qualifies as a meeting must be conducted as an open session (absent any qualification for holding a closed session). As an open session, all members of the public who choose to attend must be given access.

Is the government body required to keep minutes?

Iowa Code § 21.3(2) requires that “[e]ach governmental body shall keep minutes of all its *meetings* showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.” (emphasis added).

If a chapter 21 meeting occurs, minutes of that meeting must be taken.

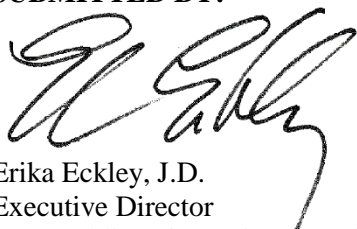
Is a meeting required to be recorded?

There is no requirement under Iowa Code chapter 21 to record any open session of a government body.

BY DIRECTION AND VOTE OF THE BOARD:

- Daniel Breitbarth
- Joan Corbin
- E.J. Giovannetti
- Barry Lindahl
- Joel McCrea
- Monica McHugh
- Julie Pottorff
- Jackie Schmillen

SUBMITTED BY:



Erika Eckley, J.D.
Executive Director
Iowa Public Information Board

ISSUED ON:

February 15, 2024

Pursuant to Iowa Administrative Rule 497-1.3(3), a person who has received a board opinion may, within 30 days after the issuance of the opinion, request modification or reconsideration of the opinion. A request for modification or reconsideration shall be deemed denied unless the board acts upon the request within 60 days of receipt of the request. The IPIB may take up modification or reconsideration of an advisory opinion on its own motion within 30 days after the issuance of an opinion.

Pursuant to Iowa Administrative Rule 497-1.3(5), a person who has received a board opinion or advice may petition for a declaratory order pursuant to Iowa Code section 17A.9. The IPIB may refuse to issue a declaratory order to a person who has previously received a board opinion on the same question, unless the requestor demonstrates a significant change in circumstances from those in the board opinion.

The Iowa Public Information Board

In re the Matter of: Mellisa Mattingly, Complainant And Concerning: McCallsburg City Council, Respondent	Case Number: 23FC:0082 Final Report & Order
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On August 22, 2023, Mellisa Mattingly filed formal complaint 23FC:0082, alleging that the McCallsburg City Council violated Iowa Code chapter 21. The Iowa Public Information Board accepted the formal complaint on November 16, 2023, and approved the informal resolution on December 21, 2023.

On January 10, 2024, the City Council completed training with the League of Cities in accordance with the terms of the informal resolution. All terms of the informal resolution have now been fully completed. It is recommended that the Board dismiss the complaint as successfully resolved.

Therefore, pursuant to the terms of the Informal Resolution, this complaint is dismissed as successfully resolved.

So Ordered on February 15, 2024:

IPIB Chair

CERTIFICATE OF SERVICE

This document was sent by electronic mail on February 8, 2024, to:

Mellisa Mattingly
Franklin Feilmeyer, McCallsburg City Attorney

In re the Matter of: Leslie Wiles & Pauletta Cox, Complainants And Concerning: Redfield Public Library, Respondent	Case Number: 23FC:0096 & 23FC:0097 Informal Resolution Final Report
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Leslie Wiles filed formal complaint 23FC:0096 on October 9, 2023, alleging that the Redfield Public Library violated both Iowa Code chapter 21 & 22 on August 11, 2023 & August 30, 2023.

Ms. Wiles alleged that a private meeting took place on August 11, 2023 in which four board members and the Library Director attended. Ms. Wiles did not see an agenda or minutes from the meeting. Ms. Wiles also alleges that another meeting was held on August 30, 2023 in which a quorum was present. There was nothing posted or any agenda and minutes of the meeting.

Ms. Wiles did not provide any information regarding an alleged violation to Iowa Code chapter 22.

Pauletta Cox filed a formal complaint 23FC:0097 on October 9, 2023, alleging that the Redfield Public Library violated both Iowa Code chapter 21 on August 11, 2023, August 30, 2023, and October 8, 2023.

Ms. Cox alleged that the complaint centers around the Redfield Public Library Board holding meetings without public notice, agendas, or minutes. On August 11, 2023 a private meeting was held with three board members and the director present. The meeting was not posted. An agenda was not posted. Minutes were not taken.

A Meeting was held on August 30, 2023 at the Redfield public library. Ms. Cox stopped by the library on that afternoon and informed the Director that this meeting was not posted. She was told “we would not call it a meeting. It could be considered a gathering.” Ms. Cox informed the Director that with many board members present it should still be considered a meeting and it needed to be posted. Ms. Cox took pictures of all of the bulletin boards showing that it was not posted.

Ms. Cox also reported that a meeting of the Redfield Public Library Board was held on October 8, 2023. She alleges that the meeting was not posted, there was no agenda, and not all of the members were notified. There was discussion held concerning meetings not being posted.

Cristin Lantz, Board Vice President authored the response from the Library Board with review by Obie Meyers, Board Secretary and Martha Bosomworth, Board President.

Ms. Lantz responded and provided information regarding the meeting on August 11, 2023: An informal meeting was held at the Redfield Public Library on Friday, August 11th to discuss a concern that was brought forth by a board member. Library Director Lori Stonehocker and board members Martha Bosomworth, Obie Meyers and Cristin Lantz were present. No other board members were contacted. We did not consider this a formal meeting. We were taking this as an opportunity to squash rumors being started regarding the integrity of the library director and library board. There was not a quorum. There was no agenda posted. Nothing was voted on. A notice, agenda or minutes were not done for the August 11th meeting as we were considering this as an informal meeting.

Ms. Lantz responded and provided information regarding the meeting on August 30, 2023: A second meeting was held at the Redfield Public Library on Wednesday, August 30th to allow Pauletta Cox to voice concerns that she was taking individually to our library board officers. Library Director Lori Stonehocker and board members Pauletta Cox, Martha Bosomworth, Obie Meyers and Cristin Lantz were present. Lynn Baldwin was notified but did not attend. We did not consider this a formal meeting. We were trying to address a disgruntled board member. There was no agenda posted. Nothing was voted on. A notice, agenda or minutes were not done for the August 30th meeting as we were considering this an informal meeting.

Ms. Lantz responded and provided information regarding the meeting on October 8, 2023: A special meeting was held on Sunday, October 8th to address a succession of emails from disgruntled board members Leslie Wiles and Pauletta Cox. All board members were invited. All were present except for Bernie Peterson and Lynn Baldwin. We did consider this a formal meeting, while it was not one of our regular meetings. There was no formal agenda presented at the meeting and no agenda was posted. The Library Director normally posts meeting agendas for our regular meetings. Nothing was voted on. Ms. Lantz provided the agenda and minutes for October 8th meeting. A notice was not posted.

Law

Iowa Code §21.4(1)(a): ...a governmental body shall give notice of the time, date, and place of each meeting including a reconvened meeting of the governmental body, and the tentative agenda of the meeting, in a manner reasonably calculated to apprise the public of that information.

Iowa Code §21.4(2)(a): ...notice conforming with all of the requirements of subsection 1 shall be given at least twenty-four hours prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given.

Iowa Code §21.3: Meetings of governmental bodies shall be preceded by public notice as provided in section 21.4 and shall be held in open session unless closed sessions are expressly permitted by

law. Except as provided in section 21.5, all actions and discussions at meetings of governmental bodies, whether formal or informal, shall be conducted and executed in open session.

Each governmental body shall keep minutes of all its meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.

Analysis

Both of these complaints make the same allegations regarding the same meetings. IPIB staff reviewed the allegations and responses in these two complaints. The meeting held on August 11, 2023 does not appear to have included a quorum of the Board. The meetings held on August 30, 2023 and October 8, 2023 did have a quorum present but did not provide notice to the public or provide an agenda for their meeting. Staff finds it concerning that this Board considers that some meetings are not official meetings and therefore they do not follow the requirements included in Iowa Code chapter 21.

Staff believes that training of this Board is necessary to ensure that the public has access to business of this governmental body and the Board functions in a transparent manner. The Redfield Public Library Board violated Iowa Code chapter 21 on two occasions. There were no allegations presented regarding a violation of chapter 22.

The formal complaint was accepted by the IPIB on November 16, 2023.

Pursuant to Iowa Code §23.9, the parties negotiated and reached an informal resolution. The parties agree to the following terms:

1. The Redfield Public Library Board will acknowledge at an open meeting that there are sufficient facts to show that the notice, agenda, and minutes of a meeting held on August 30, 2023 and October 8, 2023 was insufficient pursuant to Iowa Code §21.3 and §21.4. This acknowledgement shall be recorded in the minutes of said meeting and minutes shall be provided to the IPIB.
2. The Redfield Library Board shall conduct training during an open meeting for all board members and staff on Iowa Code chapters 21 and 22 (Sunshine Laws). The Board shall work with Adam Doll, attorney and the Iowa Public Information Board to provide the training to the Board and staff.
3. The Redfield Library Board shall approve this resolution during an open meeting and include the full text in the minutes of said meeting. Said minutes shall be provided to the IPIB.

The Redfield Public Library Board approved and signed this resolution on December 4, 2023. Ms. Wiles agreed to this resolution and signed it on December 4, 2023. Ms. Cox agreed to this

resolution and signed it on December 4, 2023. All parties had 60 days to meet the terms of this resolution. The Iowa Public Information Board approved this resolution on January 18, 2024.

The Redfield Public Library Board acknowledged violations of Iowa Code chapter 21. It approved the informal resolution at its December 4, 2023 Board meeting and included the full text in its minutes of the December 4, 2023 Board meeting. A copy of the minutes has been provided to the IPIB.

On February 5, 2024, the Board and Director participated in training led by their counsel, Adam Doll, using training materials provided by the Iowa Public Information Board. All Board members were present. The minutes of this meeting were provided to the IPIB.

The proof of compliance has been provided. Therefore, the IPIB should dismiss this complaint as successfully resolved.

By the IPIB Deputy Director

Brett J. Toresdahl

The Iowa Public Information Board

In re the Matter of:	Case Number: 23FC:0100
Travis Johnson, Complainant	Informal Resolution
And Concerning:	
Eddyville Blakesburg Fremont CSD Board of Education, Respondent	

COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Acceptance Order:

On October 18, 2023, Travis Johnson filed formal complaint 23FC:0100, alleging that Eddyville Blakesburg Fremont CSD Board of Education (“Board”) violated Iowa Code chapter 21.

Facts

Mr. Johnson alleges that after the start of the Board’s meeting on October 16, 2023, the published agenda was amended to add an action item regarding the school hiring a volunteer archery coach. The item was discussed and board action was taken at the meeting. There was no advanced notice that this item was to be addressed at this meeting. There was an item on the agenda to approve a list of volunteer coaches for the archery program, but nothing on hiring a head coach. Parties involved such as the current head coach and other members of the archery program were not able to participate in any discussion or provide information to the voting board members. The motion to amend the agenda was by Vandello, and Van Mersbergen clarified that what she was wanting was to add an item to the agenda to address her issue on the head coach. This was not an emergent matter that had to be decided at that meeting. It could be postponed to the next meeting in which the public could be aware that the item would be discussed.

In response, the Board states that the Board felt it was necessary to add the agenda at the last minute to add the archery coach discussion and approval because if they waited until the next meeting the position would not have been posted until November and approved until December.

The minutes of the meeting reflect the change in the meeting agenda and the item added to consider a volunteer head archery coach was discussed and approved. There was no statement regarding

why the issue was emergent and could not wait for the following Board meeting or a special meeting to provide the required notice to the community.

The Iowa Public Information Board (IPIB) accepted the complaint on November 16, 2023. Pursuant to Iowa Code section 23.9, the parties have agreed upon the following terms for an informal resolution of this matter:


1. The Board acknowledges that there was sufficient evidence of a violation of Iowa Code chapter 21 when the Board voted to revise the Board's agenda at the time of the Board meeting when no emergency existed. This addition to the agenda failed to provide the required 24-hour notice to the public regarding the topics of deliberation and action to be taken by the Board. The Board will include this acknowledgement in the minutes of an open meeting.
2. The Board will conduct Open Meetings and Public Records training at an open meeting with notice to the public. This training will be conducted by the Iowa Association of School Boards or the Iowa Public Information Board. This will be scheduled by the Board.
3. The Board will review its policies and procedures for setting agendas and conducting open meetings and make any necessary changes to ensure the Board has steps in place to address what constitutes an emergency for revising an agenda without notice and puts procedures in place to address any issues that do not meet that standard but that need to be addressed at a meeting, such as safety protocols, planning, etc.
4. Amendment of Action of vetting coach will not occur until the 2024-2025 archery season, if the amendment fails at the January 15, 2024 board meeting, the previous action item from the October 16th board meeting is nullified.
5. The Board will approve this agreement at an open meeting and provide a copy of this Informal Resolution with its meeting minutes.

All terms of this Informal Resolution shall be completed within 60 days of the date of approval of this Informal Resolution by all parties. Upon showing proof of compliance, the IPIB will dismiss this complaint as successfully resolved.

THIS INFORMAL RESOLUTION HAS BEEN REVIEWED AND APPROVED BY THE FOLLOWING:


Travis Johnson

1/15/24
Date


Eddyville Blakesburg Fremont CSD Board of Education

By: Ed Glenn
(Print Name)

1-15-2024
Date

The Iowa Public Information Board

<p>In re the Matter of:</p> <p>Braxton Morrison, Maggie Mangold, Dana Sanders, Kurt Karr, Valerie Close, Kaitlin Emrich, Lu Karr, Molly Rach, and Alex Carros, Complainants</p> <p>And Concerning:</p> <p>Benton County Board of Supervisors, Respondent</p>	<p>Case Numbers: 23FC:0101; 23FC:0102; 23FC:0107; 23FC:0108; 23FC:0109; 23FC:0110; 23FC:0111; 23FC:0112; 23FC:0113; 23FC:0121</p> <p>Consolidation and Acceptance Order</p>
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Acceptance Order:

Between, October 22 and November 20, 2023, Braxton Morrison, Maggie Mangold, Dana Sanders, Kurt Karr, Valerie Close, Kaitlin Emrich, Lu Karr, Molly Rach, and Alex Carros filed formal complaints, alleging that Benton County Board of Supervisors (Board) violated Iowa Code chapters 21 and 22.

All of the Complaints allege issues arising from or during Board meetings that occurred September 26 through November 8, 2023. In addition, the allegations within the ten complaints are intermingled and overlapping. Due to the number of Complaints, as well as, the common Respondent and circumstances, it is recommended that the Complaints be Consolidated.

Additional Procedural Information

Shortly after filing Complaints 23FC:0101; 23FC:0102; and 23FC:0110, Complainants also filed a lawsuit in district court based on the same allegations and facts. Despite the provisions within Iowa Code § 23.5 on the election of remedies regarding complaints under Iowa Code chapters 21 and 22 as well as the requirement to stay proceedings in the district court to allow for resolution by IPIB if separate parties file in both IPIB and the district court, the parties did not seek a stay of district court proceedings and ultimately approved a settlement agreement regarding the matter. As a courtesy, this present matter was paused while the settlement was being effectuated. The

settlement between those parties has now been ratified and was provided to IPIB as part of its review. The settlement agreement is a public record and is attached to this Complaint.

As part of the settlement agreement, Complaints 23FC:0101; 23FC:0102; and 23FC:0110 are to be dismissed upon receipt of attorney fees and other costs to the plaintiffs. Additionally, the Board agreed to undergo annual training on Iowa Code chapters 21 and 22. Pursuant to the settlement agreement, however, the Board denies and continues to deny any violation of Iowa Code chapters 21 or 22, so full review by IPIB of these claims for the remaining Complainants who have been patiently waiting, is appropriate at this time.

**Closed Session September 26, 2023 for Evaluation of Barb Greenlee
(Case No. 23FC:0101; 23FC:0102; 23FC:0121)**

Complaints 23FC:0101, 23FC:0102, and 23FC:0121- Complainants allege discussions by the Board regarding termination of the entire Board of Health began on September 26th, 2023, when the Board of Supervisors entered a closed session with Barb Greenlee, a half-time Board of Health employee, the Benton County Auditor Hayley Rippel, and the Human Resources Director Sue Wilber. The closed session was entered into without citing a reason on the agenda or in the motion, as they are required to do pursuant to Iowa Code 21.5(2). The YouTube video was also not restarted after the minutes from the 26th state the Supervisors exited the closed session.

During the closed session, the Board decided to fire all five Board of Health members. The minutes reflect that after exiting the closed session at 10:47 a.m., the Board voted “To take action as discussed in closed session.” No further details are provided.

None of the Board of Health members, much less members of the public, were made aware that the Board of Supervisors was considering this action. Thus, none of the Board of Health members could have requested or did request that the performance evaluation take place in closed session, which is required by Iowa Code § 21.5(1)(i). They were notified by letter of their termination after the Board of Supervisors meeting.

No other exception to the Open Meetings Law, aside from § 21.5(1)(i), was given for the Supervisors’ closed session and no other exception would be valid.

Board Response: Brent Hinders, attorney for the Board responded to the Complaints. The publicly stated reason that was given for the closed session involved: (1) The evaluation of the professional competency of an individual public employee, (2) the consideration of the appointment, hiring, performance, or discharge of that individual, (3) if conducted in an open meeting this discussion would have caused needless and irreparable injury to that person’s reputation, and (4) this individual public employee requested that the board go into closed session to evaluate their

professional competency and performance pursuant to the statute in question and to IPIB guidance on the subject. *See* IPIB Advisory Opinion 14FO:0002, Feb. 20, 2014.

Published Agenda item No. 13, posted Minutes, and YouTube recording of the meeting demonstrate otherwise. The public was properly notified of the closed session by the 13th item listed on the Agenda that was published before the Board Meeting and stated: 10:00 A.M. Sue Wilber Re: Closed Session pursuant to Iowa Code 21.5(1)i. To evaluate the professional competence of an individual whose appointment, hiring, performance, or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requests a closed session.

This closed session was announced publicly during open session and is confirmed by the September 26, 2023, YouTube video of the Board of Supervisors meeting before the Board moves to go into closed session.

If the above-cited Agenda Item No. 13 was in reference to the five members of the Benton County Board of Health, then Complainants would be correct in stating that those employees would have had to request the closed session for it to be lawful. However, the closed session was held to evaluate a completely different public employee. Thus, the complaint is without merit and the minutes and audio recordings of the closed session should remain sealed to prevent needless and irreparable injury to a public employee.

IPIB Analysis

Per the settlement agreement, Complaints 23FC:0101 and 23FC:0102 will be dismissed.

IPIB Staff reviewed the Board's Agendas, Minutes, and YouTube videos related to these Complaints as well as any additional recordings or relevant documents for each Complaint.

On September 26, 2023, all three members of the Board voted to hold a closed session under Iowa Code § 21.5(1)(i) to evaluate the professional competence of an individual whose appointment, hiring, performance, or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requests a closed session. The individual who requested the closed session was Ms. Greenlee.

Iowa Code § 21.5(1)(i) allows for a closed session to evaluate Ms. Greenlee's professional competence when necessary to prevent needless and irreparable injury to that individual's reputation Iowa Code § 21.5(2), however, mandates that a "governmental body shall not discuss any business during a closed session which does not directly relate to the specific reason announced as justification for the closed session."

IPIB Staff was provided a copy of the confidential, closed session recording of September 29, 2023. After reviewing the audio of the closed session, the conversation that occurred within the closed session likely exceeded the scope of the stated purpose of the closed session in potential violation of Iowa Code § 21.5(2).

Complaint 23FC:0121 regarding this meeting should be ACCEPTED. Complaints 23FC:0101 and 23FC:0102 are DISMISSED as agreed by the parties.

**Closed Session October 3, 2023 for two Attorney-Client Discussions pursuant
to Iowa Code § 21.5(1)(c)
(Case Nos. 23FC:0101; 23FC:0102; 23FC:0111; 23FC:0113)**

Complaints: 23FC:0101, 23FC:0102, 23FC:0111, 23FC:0113 Complainants allege on October 3rd, the agenda for the meeting included two separate closed sessions the first requested by Sue Wilber, and the second requested by Ray Lough. The YouTube video does not get restarted for the remainder of the Supervisor's meeting on October 3rd, but the minutes reflect that the first closed session was exited, and the Human Resources director was “granted the authority to act on matters discussed in closed session...” A second closed session was then entered into that, again, is not publicly available.

At the November 2 BOS meeting, County Attorney Ray Lough indicated the vote to terminate the Benton County Board of Health (BOH) was taken at the October 3 meeting. Members of the Board of Health had no knowledge of any pending or imminent litigation, or any potential cause for such and were unaware the Board was considering their terminations. The board of health had not pursued any legal action against the county at that point. One Complaint stated, “I do not believe the cause for entering closed session was truthful, and the vote to terminate the board was inappropriately held in closed session.” This board continually uses closed meeting sessions as a way of avoiding transparency. Since July 1, 2023 this board has gone into closed session at least 16 times.

Board Response: The Board of Supervisors held the closed session in question using Iowa Code Section 21.5(1)(c) “[t]o discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation.” Iowa Code Section 21.5(1)(c). County Attorney Ray Lough was present during both of the closed sessions on October 3, 2023, as required by statute, and can attest that Counsel discussed matters that are presently in litigation or where litigation was imminent, and that disclosure would be likely to prejudice or disadvantage the position of the Benton County Board of Supervisors in that litigation.

The Complainant is not entitled to notice of closed sessions between counsel and the governmental body regarding present or imminent litigation beyond that of the notice given to the public given via the agenda that was published prior to the October 3, 2023, meeting that informed the public of the closed session.

IPIB Analysis:

Per the settlement agreement, Complaints 23FC:0101 and 23FC:0102 will be dismissed.

According to the minutes, Supervisor Bierschenk moved and Supervisor Primmer seconded to enter a closed session to discuss strategy with counsel at 10:16 a.m. The actual vote of all members to enter the closed session was not included in the minutes. This session was ended by affirmative vote of the Board at 11:15 a.m. The Board voted to “To act on matters proposed with Human Resources Director in closed session and to grant authority to Sue Wilber to implement that with appropriate timeline.”

According to the minutes Supervisor Primmer moved and Supervisor Bierschenk seconded to enter another closed session to discuss strategy with counsel at 11:18 a.m. Again, the actual vote of all members was not included in the minutes. This session was ended by affirmative vote of the Board at some point in time. The minutes do not indicate the time. No action was taken by the Board following the second closed session.

In responding to the Complaint, an affidavit was provided by Hayley Rippel attesting that for the first closed session on October 3, the locking mechanism on the flash drive was on and the closed session was not recorded, but Ms. Rippel states she took extensive notes of the session. No additional information was provided.

Because this Complaint involved closed sessions for the purpose of engaging in attorney-client privileged communications and the Board has not waived the privilege, no recordings or notes were provided to IPIB. The minutes, however, twice fail to include the vote of all members as required by Iowa Code 21.5(2) who voted to enter the closed sessions: “The vote of each member on the question of holding the closed session and the reason for holding the closed session by reference to a specific exemption under this section shall be announced publicly at the open session and entered in the minutes.”

To allow for additional investigation, Complaints 23FC:0111, and 23FC:0113 regarding this meeting should be ACCEPTED. Complaints 23FC:0101 and 23FC:0102 are DISMISSED as agreed by the parties.

**Closed Session October 31, 2023 for Evaluation of Sue Wilber, HR Director
(Case Nos. 23FC:0107; 23FC:0109; 23FC:0110; 23FC:0112)**

Complaints 23FC:0107, 23FC:0109, 23FC:0110, 23FC:0112: The Board of Supervisors went into a closed meeting to discuss an evaluation of Sue Wilber the HR Director. The Board dismissed the Auditor during the closed session and had Ms. Wilber take minutes and record the meeting. This is against Iowa law.

Board Response: Complainant alleges potential violations of Iowa law related to the County Auditor not being present during a closed session. However, the Iowa Public Information Board is specifically set up to secure compliance with and enforcement of the requirements of Chapters 21 and 22 through the provision by the Iowa public information board to all interested parties of an efficient, informal, and cost-effective process for resolving disputes. Iowa Code Section 23.1. Furthermore, IPIB's jurisdiction is limited to the application of Iowa Code chapters 21, 22, and 23, and rules in Iowa Administrative Code chapter 497. Thus, the Board will not address those allegations in this response.

IPIB Analysis

Complaint 23FC:0110 will be dismissed as per the settlement agreement.

On October 31, 2023, the Board voted to hold a closed session under Iowa Code § 21.5(1)(i) to evaluate the professional competence of an individual whose appointment, hiring, performance, or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requests a closed session.

The minutes indicate Sue Wilber requested the board go into closed session to do her employee evaluation. Supervisor Primmer directed Auditor Rippel to also exit the room for this portion of the meeting. Supervisor Primmer moved and Bierschenk seconded: "To enter into closed session pursuant to Iowa Code 21.5(1)i: To evaluate the professional competency of an individual whose appointment, hiring, performance, or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requests a closed session. Motion carried at 10:05 a.m." Primmer moved and Bierschenk seconded: "To exit closed session at 11:00 a.m. Motion carried."

Complainants allege that the Board did not have the authority to ask the Auditor to leave the closed session. In response, the Board states that this issue is beyond the jurisdiction of the IPIB. In *KCOB/KLVN, Inc. v. Jasper Cnty. Bd. of Sup'rs*, 473 N.W.2d 171, 176 (Iowa 1991), the Iowa Supreme Court found there was substantial compliance by the Board when they asked the deputy auditor, the secretary of the meeting to leave before the closed session, so no minutes of the vote or the reason for the closed session were taken. In this situation, the auditor was asked to leave

after the vote was taken. The court in *KCOB/KLVN* did not specifically address whether asking the auditor to leave the closed session was a violation under Iowa Code Chapter 331 as opined by attorney general opinion 1992 Iowa Op. Atty. Gen. 179 (Iowa A.G.), 1992 WL 470382.

The minutes of this meeting, however, fail to include the vote of all members to enter into closed session as required by Iowa Code 21.5(2): “The vote of each member on the question of holding the closed session and the reason for holding the closed session by reference to a specific exemption under this section shall be announced publicly at the open session and entered in the minutes.”

In addition, IPIB Staff was provided a copy of the confidential, closed session recording of October 31, 2023. After reviewing the audio of the closed session, the conversation that occurred within the closed session likely exceeded the scope of the stated purpose of the closed session in potential violation of Iowa Code § 21.5(2).

For these reasons, Complaints 23FC:0107, 23FC:0109, and 23FC:0112 regarding this meeting should be ACCEPTED. Complaint 23FC:0110 is DISMISSED as agreed by the parties.

**Failure to Provide “Draft” Document Handed to Board during
Open Meeting on October 31, 2023
(Case Nos. 23FC:0108; 23FC:0110; 23FC:0113)**

Complaints 23FC:0108, 23FC:0110, 23FC:0113 allege an unsigned contract between Virginia Gay Hospital and the Board was presented in open meeting for consideration of the Board. There was an item on the agenda to discuss/approve the agreement. The public asked to view the contract, but the Board stated it was advised by the county attorney that the document was a draft and not available for the public to obtain.

Board Response: Regarding the contract mentioned in the complaint, IPIB has already established that this is indeed a public record, and a copy of the final draft of the contract as well as the draft presented to the Board at the October 31, 2023, meeting has been provided with the response.

IPIB Analysis

Per the settlement agreement, Complaint 23FC:0110 will be dismissed.

On October 31, 2023, the Benton County Board of Supervisors were provided a “draft” contract to review during the designated portion of the Board’s agenda. Video of the meeting showed the contract being handed to the Board, and Supervisors can be seen sitting and reading the document for a period of time in the open session. The minutes indicate the following: “Sue Wilber spoke up for Ray Lough, County Attorney who wasn’t able to attend today’s meeting. Wilber provided

a rough draft of a contract with Virginia Gay Hospital to the board regarding Public Health Services. The Board has scheduled a future meeting for Thursday so that they have more time to look this over and have VGH representation present. When asked if the public could see the proposed agreement, Supervisor Primmer said it is not signed, therefore it is not available to the public. No action was taken.”

IPIB Staff contacted the county attorney, counsel for the Board, following one of the complaints filed after members of the public were denied copies of the document when requested. The County Attorney did provide copies of the contract as a public record. In addition, a copy of the contract was provided in response to these Complaints. Because the document has been provided, any delay in providing the record was reasonable or simply harmless error.

For these reasons, Complaints 23FC:0108, 23FC:0110, and 23FC:0113 regarding this document should be DISMISSED.

Questions Regarding Settlement (Case No. 23FC:0107)

Complaint 23FC:0107 alleges the Board refused to answer questions regarding a harassment case that was recently settled.

Board Response: Complainant’s allegation is that the Board violated open records or open meetings laws because they would not answer verbal questions related to a settlement of a lawsuit by stating “they said it is inappropriate to ask questions of the harassment case they recently had to settle.” While final binding written settlement agreements and/or a summary thereof that resolve legal disputes are public records pursuant to Iowa Code Section 22.13 and may be disseminated to the public, members of a government body that have knowledge of such a legal dispute are not required to discuss confidential or privileged information that pertains to the dispute. Doing so could compromise privileged information or conversations pursuant to Iowa Code Section 622.10 as well as privileged information or discussions that occurred during a closed session under Iowa Code Section 21.5(1)(c). *See* Iowa Code Sections 22.5(1)(c), 22.13, and 622.10.

IPIB Analysis

Because this Complaint is requesting answers to questions and not copies of records, the IPIB does not have jurisdiction over the complaint as required by Iowa Code section 23.1. *See* 19FC:0002 Don Burgmaier/Iowa Department of Human Services - Dismissal Order

Complaint 23FC:0107 regarding the failure to answer questions regarding a settlement should be DISMISSED.

Conclusion

Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. This complaint meets the necessary requirements for acceptance.

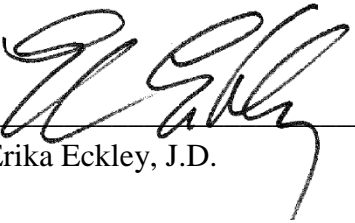
IT IS SO ORDERED: Formal complaints 23FC:0107, 23FC:0109, 23FC:0111, 23FC:0112, 23FC:0113 and 23FC:0121 are accepted pursuant to Iowa Code § 23.8(1) and Iowa Administrative Rule 497-2.1(2)(a).

Formal complaint 23FC:0108 is dismissed because the documents have been provided.

Formal complaints 23FC:0101, 23FC:0102, and 23FC:0110 are dismissed per the settlement agreement by the parties.

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review this Order on February 15, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on February 7, 2024, to:

Brent Hinders, attorney for Benton County Board of Supervisors
Braxton Morrison, Maggie Mangold, Dana Sanders, Kurt Karr, Valerie Close, Kaitlin Emrich, Lu Karr, Molly Rach, and Alex Carros, Complainants

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (hereinafter "Agreement") is made by and between Benton County, Iowa, Tracy Seeman, Gary Bierschenk, Rick Primmer, and the Board of Supervisors of Benton County, Iowa, (collectively "Benton County" or "Defendants") and Margaret Mangold, Braxton Morrison, Kaitlin Emrich, Lisa Staab, and Wendy Michels, (collectively "the Plaintiffs"). "The Parties" to the Agreement are the Defendants and the Plaintiffs.

Recitals

- A. The Plaintiffs individually filed The Plaintiffs filed Complaints with the Iowa Public Information board against the named defendants which are captioned IPIB Case No.s: 23FC:0101; 23FC:0102, and; 23FC:0110. Plaintiffs also filed a Petition and Jury Demand in Benton County naming the same above-mentioned Defendants and Respondents in a lawsuit. Case No. LACV010710 (hereinafter "Lawsuit"). The Complaints and Lawsuit will collectively be referred to as the Charges.
- B. In response to the Charges, these Defendants denied and continue to deny the allegations on which the Plaintiffs based their claims.
- C. The Parties now intend to resolve fully any and all disputes, claims, issues and differences between them including, but not limited to, all claims alleged in the Charges and, and any and all other claims, demands or causes of action which arose prior to the effective date of this Agreement.

Agreement

NOW THEREFORE, in consideration of the mutual promises and performances set forth herein, the sufficiency of which the Parties expressly acknowledge, the Parties hereby agree as follows:

1. **Non-Admission of Liability.** This Agreement shall not be construed as an admission by Benton County and any of the Defendants individually of any wrongdoing or any violation of any federal, state, or local statute or ordinance or any enforceable right of the Plaintiffs. The Defendants specifically disclaim any wrongdoing whatsoever against Martin.

2. **Payment.** On or after the Effective Date, Defendants or others on their behalf will pay the total sum of \$11,430.00 (Eleven Thousand Four Hundred Thirty Dollars and 00/100) ("Settlement Amount") as a check payable to Carney Appleby Law, P.L.C. for attorney's fees, expenses and costs.

3. **Equitable Relief.** The Defendants promise to provide or implement the following measures as part of their collective and on-going obligations to this agreement as detailed below:

a. **Public Statement:** The Defendants shall issue a public statement at an open session regularly scheduled meeting of the Benton County Board of Supervisors no later than

twenty-one (21) days after the signing of this agreement. That statement is attached to this agreement as "Exhibit A."

b. **Training:** The Defendants, Tracey Seeman, Rick Primmer, and Gary Bierschenk shall attend annual training regarding Iowa Open Meetings law for the duration of their service on the Board of Supervisors or so long as practicable. Benton County, Iowa, shall mandate additional training of its Board of Supervisors as well as the members of all other Benton County Boards, Commissions, or other government bodies that are subject to the requirements of the Iowa Open Meetings Act.

4. **Dismissal of Charges.** Within seven (7) days after the check and fully executed Agreement noted within Paragraph 2 have been delivered to counsel for the Plaintiffs, counsel for Plaintiffs shall file a Voluntary Dismissal filed with Prejudice in the District Court of Iowa and notify the Iowa Public Information Board of the resolution and resolution of the complaints filed and supply any information to the appropriate entities to effectuate the purpose of dismissal with each party responsible for its own costs and attorney fees, other than those set forth herein.

5. **The Plaintiff's Release of All Claims.** In consideration of the promises and performances set forth herein, Plaintiffs hereby releases and forever discharges Benton County, Iowa, Tracy Seeman, Gary Bierschenk, Rick Primmer, and the Board of Supervisors of Benton County, Iowa, and their current and former elected and appointed officials, officers, employees, and agents, Heartland Insurance Risk Pool, and its affiliates, and each of their officers, directors, employees, successors and assigns ("Releasees") from any and all demands, claims, causes of action, obligations, agreements, promises, representations, damages, suits and liabilities for any violation of Iowa Code Chapters 21; 22, and; 23 that exists as of the date this Agreement is executed, whether developed or undeveloped, known or unknown, foreseen or unforeseen. The Plaintiffs acknowledge that the Plaintiffs consciously intend these consequences even as to claims for damages that may exist as of the date of this Agreement, but which the Plaintiffs do not know exist, and which, if known, would materially affect the Plaintiff's decision to execute this Agreement, regardless of whether the Plaintiff's lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause.

The claims Plaintiffs are releasing include (without limiting the generality of the foregoing) all claims, demands, or actions which were or could have been asserted by the Plaintiffs in the Charges; all claims arising under the Iowa Open Meetings Act; the Iowa Open Records Act, and; any other federal, state, or local statute or regulation, including but not limited to those regarding any claims arising under the common law of the State of Iowa or any other state, except for claims which cannot be legally released.

6. **Interpretation of Agreement.** Each party to this Agreement and their attorneys has reviewed this Agreement, and accordingly, this Agreement shall not be construed for or against any party by reason of source of drafting. If any portion, provision, or part of this Agreement is held, determined, or adjudicated to be invalid, unenforceable, or void for any reason whatsoever, each such portion, provision, or part of this agreement and release shall be severed from the remaining portions, provisions, or parts of this Agreement and shall not affect the validity or enforceability of such remaining portions, provisions, or parts.

7. **Warranty of Authority to Execute Agreement.** The signatories to this Agreement represent and warrant that each has the right and authority to execute this Agreement in their individual and/or representative capacity, as applicable. In entering into this Agreement, no Party has relied on any representations or warranties of any other Party, other than the representations or warranties expressly set forth within this Agreement. The Parties intend this Agreement to be legally binding. The Parties are legally able to give and entitled to receive the consideration being provided in settlement of the Charges. The Parties have not been involved in any bankruptcy or other insolvency proceedings at any time since the aforementioned Charges were filed.

8. **Third Party Interests.** The Plaintiffs represent that they know of no person or entity who/that has paid any amount on her behalf for which any other person or entity may seek, claim or attempt to recover as a subrogee of the Plaintiffs against Benton County and other Defendants individually or the Releasees. If such lienholder, subrogee, or any person/entity with a third-party interest exists, The Plaintiffs agree to satisfy those third-party interests and further agrees to indemnify Benton County and other Defendants individually for any such claims or interests that are asserted thereby. The Plaintiffs further represent that the Plaintiffs have not assigned any of the Charges to any other person or entity.

9. **Entire Agreement.** This Agreement constitutes the entire agreement, written and oral, of the parties hereto, and it supersedes and replaces all prior negotiations, proposed agreements, understandings, representations, and agreements, written or oral.

10. **Amendment, Modification, Waiver.** This Agreement may not be amended, modified, or changed unless the changes are in writing and signed by all of the Parties hereto. The waiver by any party hereto of any breach of any provision of this Agreement shall not constitute or operate as a waiver of any other breach of such provision or of any other provision hereof, nor shall any failure to enforce any provision hereof operate as a waiver at such time or at any future time of such provision or of any other provision hereof.

11. **Additional Representations.** The Parties, without further consideration, agree to execute and deliver such other documents and take such other action as may be necessary to affect delivery of the Settlement Amount and the dismissal of all claims with prejudice, each party paying their own costs, including, but not limited to execution of necessary documents to dismiss the Claims and Complaint with prejudice and timely deliver payment of the Settlement Amount noted above.

12. Fees and Costs. Each party hereto will bear its respective costs and fees, including attorneys' fees incurred in the litigation of this matter, with the exception of the payments noted within Paragraph 2 above.

13. Choice of Law; Consent to Jurisdiction. This Agreement will be governed by and construed under the laws of the state of Iowa. The Parties understand that they consent to the personal jurisdiction of the state and federal courts in Iowa with respect to any action seeking to enforce the terms of this Agreement.

14. Counterparts. This Agreement may be executed in one or more counterparts, all of which, taken together, shall constitute one and the same instrument. Copies or facsimiles of signatures shall be the equivalent of original signatures.

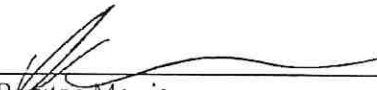
15. This Settlement Agreement and Release is subject to approval of the Benton County Board of Supervisors.

Please read carefully. This document includes a release of substantial claims and rights you may have. By signing this document, you are acknowledging that you have read the foregoing document, that you understand its terms, and that you are freely and voluntarily signing the same after first being advised to consult your own attorney.

Date: 1/10/2024


Margaret Mangold


Date: 1/10/2024


Braxton Morrison


Date: 1/17/2024


Kaijin Ertich

Date: 1/18/24


Lisa Staab

Date: 1-10-24


Wendy Michels

Date: 1-18-24

Benton County, Iowa

By: 

Title: Chairman

Benton County
Board of Supervisors

The Iowa Public Information Board

In re the Matter of: John Bandstra, Bert Bandstra, Jack Rempe, Drew Mcgee, Complainants And Concerning: South Central Regional Airport Agency, Respondent	Case Numbers: 23FC:0114, 23FC:0115, 23FC:0122, 23FC:0123 Consolidation and Acceptance Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Consolidation and Acceptance Order:

On November 6, 2023, John Bandstra filed formal complaint 23FC:0114, alleging that the South Central Regional Airport Agency (“SCRAA”) violated Iowa Code chapter 21. On November 10, 2023, Bert Bandstra filed formal complaint 23FC:0115 alleging the same. On November 17, 2023, Jack Rempe and Drew Mcgee filed formal complaints 23FC:0122 and 23FC:0123, respectively, alleging the same. Because these four complaints relate to the same events and contain substantially similar allegations, they should be consolidated.

Background

The SCRAA was established in 2012 pursuant to a joint powers agreement authorized by Iowa Code chapter 28E. Chapter 28E allows state agencies (including local units of government) “to provide joint services and facilities with other agencies and to cooperate in other ways of mutual advantage.” Iowa Code § 28E.1. The stated purpose of the 28E agreement is to provide for the “joint acquisition, construction, equipping, use and operation” of a new regional airport.

The original parties to the 28E agreement were the cities of Oskaloosa and Pella, along with Mahaska County. In 2022, the Iowa Supreme Court held that Article XI of the agreement, which prohibited Mahaska County from amending or terminating the agreement without the unanimous consent of the cities, was unconstitutional. *Landowners v. South Central Regional Airport Agency*, 977 N.W.2d 486, 501 (Iowa 2022). The Court therefore severed Article XI from the remaining

agreement, and Mahaska County subsequently withdrew. The current parties to the agreement are Oskaloosa and Pella.

The SCRAA is governed by a five-member board of directors. Three members are appointed by Pella, and two members are appointed by Oskaloosa. The current board members are Pamela Blomgren, Kevin Gaul, Doug Klahsen, David Corbin, and Jim Hansen.

Article V, section 1 of the 28E agreement created an Executive Committee “for the purpose of general oversight and administration of the Airport Facility within the policy perimeters [sic] established by the Board.” The 28E agreement states that the executive committee consists of the Board Chair and Vice Chair. The current Executive Committee consists of Jim Hansen (Board Chair) and Kevin Gaul (Vice Chair).

The SCRAA owns four parcels of land, which it has been leasing to private individuals for farming. The Executive Committee has held numerous private meetings regarding the farm leases. For example, in 2022, the executive committee met to review lease proposals and decide which lease proposals it would recommend to the Board for approval. The Board subsequently approved the four lease proposals the committee recommended.

On September 13 and November 21, 2023, the Executive Committee again held private meetings concerning, among other things, the farm leases.

The Complainants allege that the SCRAA violated chapter 21 by conducting its business in private. In support of this allegation, the Complainants point to the Executive Committee’s handling of the farm leases.

Analysis

Based on the allegations and the response, as well as the SCRAA Board agendas and meeting minutes posted on the SCRAA website, there is no indication that the *Board* violated chapter 21. Therefore, the analysis below is focused solely on whether the Executive Committee violated Chapter 21.

Is the executive committee a governmental body?

Chapter 21 applies to meetings of governmental bodies. “An advisory board, advisory commission, advisory committee, task force, or other body created by an entity organized under chapter 28E, or by the administrator or joint board specified in a chapter 28E agreement, to develop and make recommendations on public policy issues” is a governmental body subject to chapter 21. Iowa Code § 21.2(1)(j). The first issue to address is whether the Executive Committee is a governmental body under this definition.

In its additional response, SCRAA argued that the Executive Committee is not a governmental body under section 21.2(1)(j) because the Committee does not “develop and make recommendations on public policy issues” to the Board. However, the SCRAA Executive Committee makes recommendations regarding the leases and leaseholders to be approved by the Board.

The SCRAA also argues that the Executive Committee’s recommendations do not concern “public policy issues.” This argument fails for a number of reasons. First, if it were true that the Committee’s recommendations do not concern issues of public policy, there would be no reason for the Committee to submit these recommendations to the Board for deliberation and action in open session. Second, the Committee’s recommendations clearly do concern issues of public policy—they concern, for example, the leasing of publicly owned land to private individuals.

The Committee was created by the SCRAA, a 28E entity, and the Committee develops and makes recommendations on public policy issues to the SCRAA Board. Therefore, it is a governmental body under Iowa Code section 21.2(1)(j).

Did a meeting of the SCRAA Executive Committee occur?

Chapter 21 defines a “meeting” as:

a gathering in person or by electronic means, formal or informal, of a majority of the members of a governmental body where there is *deliberation or action upon any matter within the scope of the governmental body's policy-making duties.*

Iowa Code § 21.2(2) (emphasis added). As the italicized portion of the statute highlights, in order for a chapter 21 meeting to occur, the governmental body in question must deliberate or act upon a matter within its policy making duties. However, the legislature has, over the years, added certain purely advisory groups to the statutory definition of “governmental body.” *See, e.g.,* Iowa Code §§ 21.2(1)(e), (h), (j). “These groups by definition ‘make *recommendations* on public policy issues’ as opposed to *making policy.*” *Mason v. Vision Iowa Bd.*, 700 N.W.2d 349, 355 (Iowa 2005). Thus, the definition of a meeting under chapter 21 seemingly excludes meetings of such advisory groups, as they do not possess “policy-making duties” upon which to deliberate or act.

In *Mason v. Vision Iowa Board*, the Iowa Supreme Court dealt with this conflict between the legislature's definition of “meeting” and its subsequent inclusion of certain advisory groups in the definition of “governmental body.” The Court stated:

Notwithstanding the tension in the statute, we think it is clear the legislature intended to make the delineated advisory groups subject to the open meetings requirement. Otherwise, the legislature's act of including these entities in the definition of “governmental body”

would be a nullity because none of the restrictions and requirements imposed on “meetings” of a governmental body would apply. Thus, the specified advisory groups would be subject to the open-meetings requirement when they deliberate or act within the scope of their duty to develop and make recommendations on public policy issues.

Mason v. Vision Iowa Bd., 700 N.W.2d 349, 355 (Iowa 2005) (citations omitted). Thus, under the Court’s holding in *Mason*, if an advisory group is specifically included in the definition of a governmental body under section 21.2(1), then it is subject to the open meetings requirements when it a majority of its members gather to deliberate or act within the scope of its duty to develop and make recommendations on public policy issues.¹

Here, the SCRAA Executive Committee is a governmental body under Iowa Code § 21.2(1)(j). Thus, it is subject to the chapter 21 requirements when a majority of its members gather to deliberate or act within the scope of its duty to develop and make recommendations on public policy issues.

The Executive Committee currently consists of two members: Jim Hansen and Kevin Gaul. The SCRAA admits that both members of the Committee met on September 13 and November 21, 2023. The agendas of these meetings indicate that the Committee “deliberated or acted within the scope of its duty to develop and make recommendations on public policy issues.”²

Conclusion

Under Iowa Code § 21.2(1)(j), the SCRAA Executive Committee is a governmental body. Thus, it is subject to the chapter 21 open meeting requirements when a majority of its members gather to deliberate or act within the scope of its duty to develop and make recommendations on public policy issues.

On September 13 and November 21, 2023, the members of the Executive Committee gathered to deliberate or act upon matters within the scope of the Committee’s advisory duties. Neither of these meetings complied with the open meetings requirements of chapter 21. Therefore, the complaints should be accepted.

¹ On the other hand, any advisory group that is not specifically defined as a governmental body is not subject to the chapter 21 requirements when it meets.

² For example, the September meeting agenda included Item 3, “Discussion and approval of farm leases.” The November meeting again included a discussion of the leases. The SCRAA Board then approved the Executive Committee’s recommendations regarding the leases at its meeting on November 29, 2023.

Iowa Code § 23.8 requires that a complaint be within IPIB’s jurisdiction, appear legally sufficient, and have merit before IPIB accepts a complaint. Following a review of the allegations on their face, it is found that the complaints do meet those requirements.

IT IS SO ORDERED: Formal complaints 23FC:0114, 23FC:0115, 23FC:0122, and 23FC:0123 are consolidated and accepted pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” IPIB will review this Order on February 15, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on February 7, 2024, to:

John Bandstra, Bert Bandstra, Jack Rempe, Drew Mcgee
Amy Beattie, attorney for SCRAA

First, the SCRAA wants to clarify the following:

The committee that met to prepare the agenda and move matters forward to the SCRAA Board, which Board was always the decision maker, is NOT the Executive Committee referred to in the 28E Agreement. The committee, in hindsight unfortunately, historically called itself an executive committee. But the Executive Committee named in the 28E Agreement exists ONLY for the general oversight and administration of an Airport Facility as defined in the Agreement. We are a long way from that happening.

This committee has operated in the same way since the inception of the SCRAA in 2012. Mahaska County always had a representative on that committee. It was not until Mahaska County withdrew from the SCRAA in 2022 that Mr. Bandstra, now that he no longer is on the committee, claims a violation of the Open Meetings law.

There is absolutely no intent to not comply with the law. SCRAA will make sure that if there are ever any more committee meetings, it will comply with Chapter 21.

But, second:

We do think it is VERY important that IPIB give all governmental entities clearer direction. For example, a footnote states: "On the other hand, any advisory group that is not specifically defined as a governmental body is not subject to the chapter 21 requirements when it meets." We now understand that the reason we are before you is because the 28E Agreement establishes an Executive Committee to act once there is an Airport Facility and we unfortunately called the current two representative committee an "executive committee". If we had called it an "agenda committee" we assume there would not have been any issue.

IPIB's position also creates confusion on what you consider to be "advisory" and what you consider to be "policy-making". It gives us no clear direction as to when a committee has to comply with Chapter 21. We never considered that preparing an agenda and discussing leases to put on it for Board discussion and action were either "advisory" or "policy-making". Keeping in mind that before there can be any violation, the Code requires both an "advisory" committee and committee recommendations on "public policy".

Third, we are proceeding as follows:

The City of Pella and the City of Oskaloosa will be amending and restating the 28E Agreement to reflect that they are the only two parties in the SCRAA and making appropriate changes, which includes removing any reference to an Executive Committee. This is a matter that has to be handled at the City level, and is not something that can be done by the South Central Regional Airport Agency. The cities are targeting a completion date of 60 days. Any amended and restated agreement requires approval of both City Councils.

The SCRAA also agrees to publish notice of any executive committee meeting. There have been no committee meetings since the last Board meeting and there are none planned in the foreseeable future.

We have seen Mr. Bandstra's request for the removal of Board members, the banning of Board members from serving, and the request for removal of the staff members. None of these matters are matters that can be handled by the SCRAA. Each of his requests would have to be taken up by the Cities of Pella and Oskaloosa who appoint the Board members and hire their staff.

Ms. Eckley Thank you for your time in this matter. We believe that the SCRAA has indeed violated the open meetings laws set by the state of Iowa. This was confirmed with the emails that were obtained by the Oskaloosa Herald. The only way to settle this, is not by rewriting an 28E agreement(which was not considered legal by The Iowa Supreme Court) between Oskaloosa and Pella, but to sell all the parcels of land and disband the SCRAA. Thank you,
Jack Rempe

Ms. Eckley Thank you for your time in this matter. We believe that the SCRAA has indeed violated the open meetings laws set by the state of Iowa. This was confirmed with the emails that were obtained by the Oskaloosa Herald. The only way to settle this, is not by rewriting an 28E agreement(which was not considered legal by The Iowa Supreme Court) between Oskaloosa and Pella, but to sell all the parcels of land and disband the SCRAA. Thank you,
Jack Rempe

The Iowa Public Information Board

In re the Matter of: Leah Schwery, Complainant And Concerning: City of Ute, Respondent	Case Number: 23FC:0118 Acceptance Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Acceptance Order:

On November 9, 2023, the complainant, Leah Schwery, filed formal complaint 23FC:0118, alleging that the City of Ute (“City”) violated Iowa Code chapters 21 and 22.

Background

The City held a regular council meeting on September 11, 2023. At that meeting, the Council voted to terminate the Complainant from her position as city clerk. The Complainant alleged that this action violated Iowa Code chapters 21 and 22 for the following reasons:

1. The agenda for the meeting did not state that the council would be considering terminating the Complainant, which violated the public notice requirements under Iowa Code section 21.4;
2. The lack of public notice that the council would be considering her termination at the September 11 meeting deprived the Complainant of the opportunity to request a closed session and resulted in the decision to terminate her being made public; and
3. Prior to terminating the Complainant, the City did not notify the Complainant in writing that the information placed in the Complainant’s personnel record as a result of the potential disciplinary action may become a public record, as required under section 22.15.

In support of her allegations, the Complainant provided IPIB staff with a copy of the agenda for the September 11 meeting and the official minutes of the meeting that were published via newspaper. The agenda does not include any item that would indicate that the termination of the

Complainant would be deliberated or acted upon at the meeting. The agenda does include an item titled “OLD BUSINESS (for discussion if any updates).”

The meeting minutes indicate that at a previous council meeting held on August 7, 2023, the Council placed the Complainant on a 60-day probationary review period due to unsatisfactory work performance. The Council outlined essential work duties that would be referenced to assess the adequacy of the Complainant’s performance during the probationary period, such as providing the Council with bank and utility reconciliations, paying claims against the City in a timely manner, and submitting notices and other publications to the press. According to the September 11 minutes, the Complainant had failed to perform these duties in the month since the review period began; thus the Council voted to terminate her at the September 11 meeting.

The City’s Response

In its response to the complaint, the City stated that it “does not dispute the records and facts provided to the Board by the Complainant.” The City went on to explain that it had omitted the agenda item because of previous incidents wherein city clerks “removed or deleted city records while leaving employment.” The City also stated that since the September 11 meeting, the City has taken corrective action by holding a properly noticed special meeting to address the removal of the clerk, providing copies of chapters 21 and 22 to each council member for review, and informing the Council of the training opportunities offered by the League of Cities and IPIB.

Analysis

Did the agenda provide adequate notice?

Notice of an open meeting must include the tentative agenda of the meeting. Iowa Code § 21.4. The items included on the agenda must be sufficiently detailed to apprise the public of the issues that will be deliberated or acted upon at the meeting. *Id.*

When the adequacy of notice provided by an agenda item is in dispute, “[t]he issue to be resolved is not whether the notice given by the governmental body could have been improved, but whether the notice sufficiently apprised the public and gave full opportunity for public knowledge and participation.” *KCOB/KLVN, Inc. v. Jasper Cnty. Bd. of Sup’rs*, 473 N.W.2d 171, 173 (Iowa 1991). “[T]he adequacy of the notice must be determined on the basis of what the words in the agenda would mean to a typical citizen or member of the press who reads it.” *Barrett v. Lode*, 603 N.W.2d 766 (Iowa 1999).

In *KCOB/KLVN, Inc.*, the Court determined that an agenda item that contained the employee’s name and the name of the third party retained to handle employee termination proceedings provided sufficient notice that the termination of the employee would be deliberated or acted upon. In making this determination, the Court relied upon the fact that the potential termination of the employee had appeared on prior meeting agendas and had been discussed at previous

meetings. Further, the Court found that it was well known in the community that the third party named in the agenda item regularly handled employee termination proceedings. Thus, the Court concluded that, in light of this background information, the agenda item consisting of the employee's name and the name of the party handling the termination provided sufficient notice to the public that the termination of the employee would be deliberated or acted upon.

Here, the September 11 agenda made no specific reference to the termination of the city clerk. Nor did it include—in contrast to *KCOB/KLVN, Inc.*—any agenda items generally referencing the issue (e.g., the Complainant's name, discussion of the city clerk position, discussion of employment matters, or any other terms that would alert a member of the public that the issue of termination of the city clerk would be discussed).¹ Because the agenda lacked any item that would have apprised a typical citizen or member of the press of the issue to be decided, the agenda did not provide adequate notice, notwithstanding the fact that the Complainant's work performance had been discussed at the previous meeting.

Other alleged violations

The Complainant also alleges that the lack of notice on the agenda deprived her of the opportunity to request a closed session, resulting in the decision to terminate her being made public in the newspaper.

While the lack of notice that the Council would be considering her termination may have deprived the Complainant of the *opportunity* to request a closed session, a government body is never *required* to hold a closed session for any reason. Iowa Code 21.5(6) (“Nothing in this section requires a governmental body to hold a closed session to discuss or act upon any matter.”). Furthermore, even if a closed session were held to discuss the Complainant's potential termination, the actual vote to terminate her would have occurred in open session. Therefore, her termination would have been made public in the meeting minutes, regardless.

The Complainant's final allegation is that the City failed to provide the notice required under section 22.15. That code section is copied below:

A government body that takes disciplinary action against an employee that may result in information described in section 22.7, subsection 11, paragraph “a”, subparagraph (5), being placed in the employee's personnel record, prior to taking such disciplinary

¹ The meeting minutes of the September 11 meeting do not indicate that the termination was discussed under the “Old Business” agenda item. However, assuming *arguendo* that it was, the catch-all “Old Business” agenda item, coupled with the fact that the city clerk was put on probationary review at the previous meeting, still would not have adequately apprised a typical citizen or member of the press that termination of the city clerk would be discussed. This is especially true given that 1) the City does not post past agenda and meeting minutes on its website for later access by the public; and 2) the probationary review period was not set to expire for another month.

action, shall notify the employee in writing that the information placed in the employee's personnel record as a result of the disciplinary action may become a public record.

Iowa Code § 22.15. Under section 22.7(11)(a)(5), documentation of the fact that a government employee “resigned in lieu of termination, was discharged, or was demoted as the result of a disciplinary action, and the documented reasons and rationale for the resignation in lieu of termination, the discharge, or the demotion” is a public record and is not confidential, despite being a part of the employee’s personnel record.

In its response to the complaint, the City stated “[i]t does not appear from the City’s records that a notice fitting the description of Iowa Code § 22.15 was provided to the Complainant.” The City also acknowledged that such notice should have been provided to the Complainant.

Conclusion

The City did not provide adequate notice that the Council would be deciding whether to terminate the Complainant at the September 11 meeting. The agenda contained nothing that would alert a typical citizen or member of the press that the termination would be an item deliberated or acted upon at the meeting. Further, the City stated in its response that it omitted the agenda item to prevent the Complainant from receiving notice that her potential termination would be a topic of discussion at the meeting.

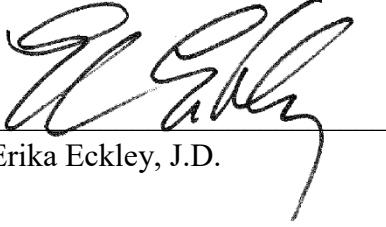
The City also admitted that it violated section 22.15 by failing to provide the Complainant the notice required under that section prior to her discharge. For these reasons, the complaint should be accepted.

Iowa Code section 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint meets those requirements.

IT IS SO ORDERED: Formal complaint 23FC:0118 is accepted pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” IPIB will review this Order on February 15, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director

A handwritten signature in black ink, appearing to read 'E. Eckley', is written over a horizontal line. The signature is fluid and cursive.

Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on February 12, 2024, to:

Leah Schwery
John Hines, Ute City Attorney

The Iowa Public Information Board

In re the Matter of: Traci Stillwell, Complainant And Concerning: Hampton Public Library, Respondent	Case Number: 23FC:0126 Acceptance Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Acceptance Order.

Facts

Traci Stillwell filed formal complaint 23FC:0126 on November 19, 2023, alleging the Hampton Public Library (“Library”) violated Iowa Code chapter 22 on November 14, 2023.

Ms. Stillwell alleges she submitted a public records request on October 22, 2023, to the Library and received an estimate for fees that were not reasonable or actual estimates.

Ms. Stillwell records request included the following, “I would like copies of all correspondence, both written and digital including any and all social media platforms, emails, and text messaging between you and the members of the Hampton City Council, City Manager, Iowa Library Association, The American Library Association, members of press i.e.: news outlets, newspapers, radio, correspondence with directors of other public libraries, present and past Board of Trustees including the board president, employees of the Hampton Public Library, The Hampton Iowa City Attorney, and with any individual who has challenged a book in Hampton Public Library from January 1, 2023 to present day.”

Ms. Stillwell alleges she received a reply from the Library on October 26, 2023 which included an initial estimate of the fees, but with the possibility of additional, open-ended fees. She believes the open-ended fees are to deter her from moving forward with the request. Ms. Stillwell responded to the library following a conversation with the Iowa Public Information Board on November 3, 2023. A letter was sent to the custodian of the records the same day asking for further explanation of the fees. She received no correspondence in reply from the custodian.

Ms. Kim Manning, Librarian for the Library provided a response. She stated that in formulating her response to the record request that she relied on the IPIB Advisory Opinion 22AO:0003. Given the amount of information requested, Ms. Manning determined that she would need to have an IT firm compile the records.

Ms. Manning provided the following estimated fees to Ms. Stillwell. Upon review of the request, the IT firm estimated the work would take approximately four hours at a rate of \$75.00 per hour (\$300 total). She stated that Ms. Stillwell did not object to this expense. Ms. Manning also provided an estimate of \$300 per hour for the review of the requested records by the Library's local counsel. She also added that depending on the amount and content of the records retrieved, the library may hire different counsel. Ms. Manning states that she is unable to provide additional estimates of fees until the materials are retrieved, how much of it needs to be reviewed by counsel, and how much time it will take.

The Library has requested prepayment of \$375 which is an amount that reflects the combined one hour of billable rates for both the IT firm and local counsel. The Library believes that this is a reasonable amount to pre-pay for fees associated with retrieving the requested records.

In a response to the Library, Ms. Stillwell questions the estimate of an IT professional needing four hours to retrieve these records. She also believes reasonable fees should not include attorney fees to verify compliance for the release of requested records. She disagrees that the request would include any confidential information. She also states that a total fee must be agreed upon prior to the records retrieval process.

Law

“Although fulfillment of a request for a copy of a public record may be contingent upon receipt of payment of reasonable expenses, the lawful custodian shall make every reasonable effort to provide the public record requested at no cost other than copying costs for a record which takes less than thirty minutes to produce. In the event expenses are necessary, such expenses shall be reasonable and communicated to the requester upon receipt of the request. A person may contest the reasonableness of the custodian's expenses as provided for in this chapter.” Iowa Code §22.3(1).

“The fee for the copying service as determined by the lawful custodian shall not exceed the actual cost of providing the service. Actual costs shall include only those reasonable expenses directly attributable to supervising the examination of and making and providing copies of public records. Actual costs shall not include charges for ordinary expenses or costs such as employment benefits, depreciation, maintenance, electricity, or insurance associated with the administration of the office of the lawful custodian. Costs for legal services should only be utilized for the redaction or review of legally protected confidential information.” Iowa Code § 22.3(2).

Analysis

Under Chapter 22, a government body, in responding to a records request, must provide an estimate

of the reasonable costs and may require payment of the fee prior to retrieving the record. A “reasonable” cost for a public records request is determinative on the facts and circumstances of retrieving and copying the record. Fees are not meant to be a revenue stream. “Reasonable” fees for retrieving a public record are meant to only offset the cost of retrieving, reviewing, and copying the record.

Ms. Stillwell’s request included an extensive number of emails and communications over a period of almost a year that would need to be reviewed by the Library to respond to the request. In response to the request, the Library sought an estimate from the IT services regarding the amount of time necessary to search for the records. The IT services estimated the search would take four hours of their time. There is no evidence that this estimate is unreasonable. If the search takes less time than estimated, the cost of the records request would be based on the actual time it took. At this stage, it is not unreasonable to rely on an estimate from the experts who will be conducting the search.

The issue in this case is the open-ended estimate for attorney fees to review the documents. In responding to the request, the Library relied on IPIB Advisory Opinion 22AO:0003. The Library did not review a more recent opinion specifically interpreting the ability to charge for attorney fees for redaction or confidentiality.¹

It is not unreasonable that the records requested by Ms. Stillwell may contain information that could be confidential or require redaction. Iowa Code limits the costs for legal services that can be charged to an individual who requests public records. “A lawful custodian may only charge for the time an attorney spends redacting or reviewing legally protected confidential information. Consequently, a lawful custodian should not charge for an attorney’s preliminary review of records to determine whether the records contain confidential information.” 23AO:0002: Costs for Legal Services. The Library is able to bill for the legal review, but only as related to the review of documents identified as potentially confidential.

IPIB Staff recognizes the difficulty in determining the extent of legal fees anticipated before the records are collected. An estimate is required, however, under Iowa Code § 22.3. Staff recommends accepting this complaint to allow IPIB to work with both parties to craft an informal resolution to achieve an understanding of the legal fees that are reasonable to be charged and work with both parties to resolve the records request and fees.

Conclusion

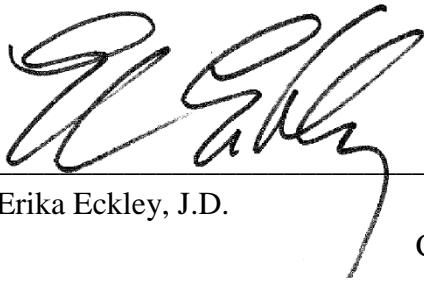
Iowa Code section 23.8 requires that a complaint be within the IPIB’s jurisdiction, appear legally sufficient, and could have merit before the IPIB accepts a complaint. This complaint meets those requirements.

¹ 23AO:0002: Costs for Legal Services

IT IS SO ORDERED: Formal complaint 23FC:00126 is accepted as legally sufficient pursuant to Iowa Code section 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review this Order on February 15, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent by electronic mail on the February 7, 2024, to:
Traci Stillwell, Complainant
Kim Manning, Librarian, Hampton Public Library

The Iowa Public Information Board

In re the Matter of: Amy McCabe, Complainant And Concerning: Pleasant Valley School District, Respondent	Case Number: 23FC:0131 Dismissal Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On November 27, 2023, Amy McCabe filed formal complaint 23FC:0131, alleging that Pleasant Valley School District (“District”) violated Iowa Code chapter 22.

Background

On October 26, 2023, the Complainant submitted a public records request to the District. The request sought “copies of any emails and text messages regarding the election, voting, Nikhil Wagle, Jameson Smith, Tracey Rivera, Molly Brockmann, Peter Olsen, Amy McCabe, [or] Adrienne Wheeler.”

On November 3, 2023, Superintendent Brian Strusz responded to the request. Superintendent Strusz stated that the District had performed an initial search for the records, which yielded 1,162 pages of emails that would need to be reviewed for responsiveness and confidentiality. Strusz informed the Complainant that the total estimated fee for the request would be \$488.72, based on an hourly rate of \$50.47 and an estimated 30 seconds to 1 minute needed to review each page.

The District requested that the Complainant pay 50% of the estimated fee upfront. The Complainant agreed to pay the fee and requested that rather than withholding confidential documents, the District “redact confidential information and send me all documents.” The Complainant also submitted a second request using the same search terms as the first, but for the period of October 27 through November 8, 2023. This second request was made on November 3,

2023, meaning that the District would need to wait until after November 8 had passed in order to complete it.

On November 6, the Complainant delivered a check to the District for 50% of the estimated fee. The following day, Strusz confirmed the receipt of payment, noted that the initial request was taking longer than anticipated to review and compile for release, and informed the Complainant that work on the second request would not begin until November 9.

On November 13, the District released 846 unredacted records to the Complainant. Upon release, Strusz noted that confidential, privileged, and unresponsive records were identified and withheld, most of which he stated were student records. He also stated that the District had begun compiling and reviewing the records from the second request. In response, the Complainant noted that email attachments were not included in the documents that were released to her and asked that the District provide them.

On November 21, Strusz informed the Complainant that the attachments had been gathered but would need to be reviewed before they could be released. In response, the Complainant again requested redacted copies of any confidential documents be provided to her, rather than withheld.

The following day, November 22, the District provided the non-confidential attachments from the first request and informed the Complainant that the second request returned 268 pages, including attachments. The District stated that the total fee to complete this request would be \$112 dollars, based on the same formula as the first request. The District also stated that certain PTA financial documents, which appeared as attachments in the emails, were only available via a secure link and that they would be provided to the Complainant as soon as access to the link was granted.

On November 27, the District provided the Complainant the PTA financial documents. Also on November 27, the Complainant filed this complaint with IPIB. The complaint allegations centered around the fact that the District had withheld some documents as confidential and had not provided redacted versions as the Complainant requested. The following is a quote from the complaint allegations:

I replied to Mr. Strusz stating that I would need all documents, including redacted confidential information if I will be paying that much money for a review. I requested Mr. Strusz to state a law that would protect the school from giving me the redacted information and he did not state a law, he simply denied me over 400 pages of my FOIA request.

On December 1, the District provided the non-confidential documents from the Complainant's second request and informed the Complainant that the redacted versions of the confidential documents would be provided to her on December 7.

On December 7, the District notified the Complainant that the redacted confidential documents were ready to be picked up. On December 8, the Complainant picked up these documents, which consisted of 508 redacted pages. Because these documents were confidential, much of the information had been redacted from them, rendering some of them more or less completely blank. The Complainant noted this in her correspondence with IPIB staff. The Complainant believes that the confidential records should not have been redacted to the degree that they were. She characterized the redacted documents as consisting of hundreds of entirely blank pages. IPIB staff reviewed the redacted versions of the records. While many are heavily redacted, they are not entirely blank.

In response to the complaint, the District argues that it fully complied with the Complainant's request. The District stated that the 508 redacted documents consisted of the following types of records:

1. Student records, which are confidential under Iowa Code section 22.7(1);
2. Confidential personnel records, which are confidential under 22.7(11);
3. Attorney-client privileged documents pertaining to a real estate agreement; and
4. "Non-responsive" documents—in other words, records that were not actually requested by the Complainant but were present in the initial search because of the search terms the District used to locate the records the Complainant requested.

IPIB staff contacted the attorney for the District, Mikkie Schiltz, to gather more information about the redacted documents. Ms. Schiltz's response is copied in its entirety below. In it, she provides examples of the types of documents that were redacted and the actions the District took to fulfill the Complainant's request:

I can give you an example of the items not responsive. One of the last names of the search appeared in documents on an employee's computer because the search was done of all communications in the District. The last name searched was the same as a wedding guest at the employee's wedding, and there were guest lists or seating charts with the last name appearing. These were apparently saved or emailed (perhaps to herself) in one document, such that it was a large, multi-page document. These were probably 100 or more pages.

There were a few different types of student records. Some were email communications with parents about students. Others included lists of students with

I believe personal email addresses of parents and names of parents for parent/teacher conferences. There were likely 50+ pages of these records.

The draft real estate agreements are deemed confidential as attorney/client communications. These drafts went back and forth via email as attachments from an attorney, and may include changes not ever agreed to by the parties. It would take extensive time to compare these drafts to the final draft. The real estate documents also were not responsive to the request for documents related to the election or voting. PVCSD did provide the final real estate agreement as a document since the real estate transaction has since or during the relevant time period been approved and/or closed by the Board. The drafts were during the period prior to the finalization of the real estate transaction. There were likely 150 pages of draft real estate documents with changes. It would take considerable time to review to consider whether all of these changes and draft suggestions were included in the final draft or if there were attorney/client considerations or notes on the drafts.

I do not have a list or log of the documents produced. PVCSD did this internally. I reviewed documents at PVCSD's office when there were questions about whether a document was privileged, confidential, or responsive. Most of the "blank" pages are the real estate drafts (with the first page noting the real estate agreement heading) or personal wedding details as noted above. Please also note that none of my time was billed to the individual requesting documents.

I am happy to discuss further any questions or clarifications you may need.

Analysis

The Complainant alleges that the District violated chapter 22 by redacting too much information from the confidential records, rendering some of them almost completely blank. The Complainant is apparently under the impression that chapter 22 requires a records custodian to release confidential records in redacted form, rather than withholding the records completely. However, that is generally not the case.

"The exceptions listed in section 22.7 are not a basis for requiring the disclosure of documents. Rather, they allow a lawful custodian of government documents to refuse to release documents that contain confidential information." *Nahas v. Polk County*, 991 N.W.2d 770, 783 (Iowa 2023). Certain exceptions contained in section 22.7 allow only specific information in a public record to be withheld, rather than the entire record itself. *See, e.g.*, Iowa Code § 22.7(18) ("Information contained in the communication is a public record to the extent that it can be disclosed without directly or indirectly indicating the identity of the person outside of government making it or

enabling others to ascertain the identity of that person.”). Generally, however, the exceptions in section 22.7 apply to the record as a whole, allowing the record to be withheld in its entirety.

Thus, the District had no legal obligation to provide the Complainant with redacted versions of the confidential documents, unless otherwise required under the applicable exemption. The District claimed confidentiality pursuant to Iowa Code section 22.7(1), Iowa Code section 22.7(11), and the attorney-client privilege. None of these applicable exemptions to disclosure requires redaction.¹ By providing redacted versions of the records to the Complainant, the District went above and beyond what the law requires in an effort to appease the Complainant.

Furthermore, many of the 508 documents were not even records that the Complainant actually requested. They were merely documents that appeared in the initial search for potentially responsive records because of the search terms the District used. The District is not required to release records that the Complainant did not request, irrespective of confidentiality.

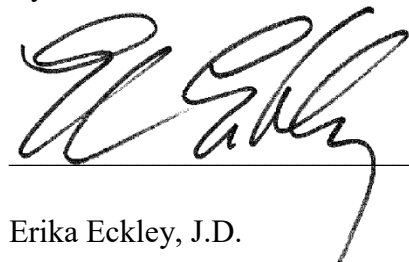
Conclusion

Iowa Code § 23.8 requires that a complaint be within IPIB’s jurisdiction, appear legally sufficient, and have merit before IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

IT IS SO ORDERED: Formal complaint 23FC:0131 is dismissed pursuant to Iowa Code § 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” IPIB will review this Order on February 15, 2023. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



A handwritten signature in black ink, appearing to read 'Erika Eckley', is written over a horizontal line. The signature is stylized and cursive.

Erika Eckley, J.D.

¹ Section 22.7(11), which exempts personnel records from disclosure, does require certain categories of information in otherwise confidential personnel records to be disclosed. *See* Iowa Code §§ 22.7(11)(a)(1–5). However, the Complainant does not allege, and there is no reason to believe, that the District failed to release such information.

CERTIFICATE OF MAILING

This document was sent on February 7, 2024, to:

Amy McCabe

Mikkie Schiltz, attorney for the District

The Iowa Public Information Board

In re the Matter of: Todd Oetken, Complainant And Concerning: Iowa Department of Education, Respondent	Case Number: 23FC:0134 Dismissal Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order.

Facts

Todd Oetken filed formal complaint 23FC:0134 on December 11, 2023, alleging that the Iowa Department of Education violated Iowa Code §22.4 on November 16, 2023.

Mr. Oetken indicates that he made his public record request by phone to the Iowa Department of Education on November 16, 2023 at which time he was directed to file the request online through their website. His record request was to attain the names of the teachers employed at the school in the Anamosa State Penitentiary from 1994-2000.

On November 29, 2023, Mr. Oetken made a call to the Iowa Department of Education since it was the 10th business day after his request had been submitted and the department had not attempted to respond to his request. An email was sent to him the following day by Betsy Lundy from the department. He felt as if they were just passing the buck on his receiving this requested material. Mr. Oetken later found that the person in charge of inmate GED and diplomas was Peggy Long at the department. He claims that Ms. Long also failed to provide him with any assistance, claiming she had no means of obtaining the names of these teachers. Mr. Oetken states that this made no sense to him because the teachers at Anamosa State Penitentiary are certified and licensed with the Iowa Department of Education.

Thomas Mayes, General Counsel, Iowa Department of Education provided a response to this complaint. He stated the Department of Education does not collect the requested records and therefore does not possess records reflective of the request. On November 30, 2023, a Department consultant, Betsy Lundy responded to Mr. Oetken's request, stating that the Department only collects teacher assignments for teachers who are employed by school districts and accredited nonpublic schools. The consultant suggested that the complainant contact the Iowa Department of Corrections to determine whether they have the records requested. Mr. Mayes also stated that any delay in responding to the request was reasonable to determine whether the records requested do, in fact, exist. The complainant received a timely and accurate response to his request.

Analysis

A records request was made to a governmental body, the Department of Education. The Department investigated whether the records existed within their Department and responded to the requestor they did not possess the records after it was determined they were not the custodian of the records requested. This was communicated to the complainant. It was also communicated in a timely manner. Therefore, the record was unable to be provided and there is no violation of Iowa Code chapter 22.

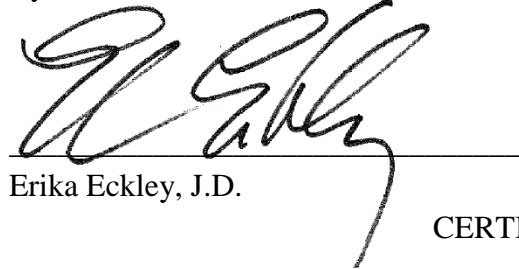
Conclusion

Iowa Code section 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and could have merit before the IPIB accepts a complaint. This complaint does not meet those requirements.

IT IS SO ORDERED: Formal complaint 23FC:0134 is dismissed as legally insufficient pursuant to Iowa Code section 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b). The Iowa Department of Education did not violate any part of the public records code section.

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may "delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board." The IPIB will review this Order on February 15, 2023. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent by electronic mail on the February 7, 2023, to:

Todd Oetken
Thomas Mayes, General Counsel, Iowa Department of Education

The Iowa Public Information Board

In re the Matter of: Adam Callanan, Complainant And Concerning: Des Moines City Council, Respondent	Case Number: 23FC:0137 Dismissal Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order.

Facts

Adam Callanan filed formal complaint 23FC:0137 on December 21, 2023, alleging the Des Moines City Council (“Council”) violated Iowa Code §21.3 on December 20, 2023.

Mr. Callanan alleged on December 20, 2023, a majority of the Council met and handled city business without proper public notice. He believes they discussed the naming of a city building. He does not know all that was discussed or who was present because he was not there, but pictures from the event show at least four members of the Council attended. He was uncertain as to whether the meeting was exempt or if the Council announced the meeting separate from their usual announcements. Mr. Callanan had heard the Council was meeting on Wednesday prior to the meeting, but could find no information, so he assumed it would not include a majority.

Carol Moser, Deputy City Attorney, provided a response on behalf of the Council. She stated there was no "meeting" within the meaning of Iowa Code chapter 21 and nothing was "handled" by the Council. She explained the event was a public social event honoring a five-term incumbent Mayor. All Des Moines television stations and the Des Moines Register had reporters present. All four media outlets reported on the social event, including some reporting live from the reception. Notice of the reception was sent to the media by way of Mr. Coleman's email about the event. This email was posted to the City's notice bulletin board in City Hall, where Council meeting notices are normally posted.

She explained there was no "deliberation or action upon any matter within the scope of the governmental body's policy-making duties" conducted at the meeting. Councilmember Coleman made a statement that he would ask for a roll call to be placed on the January 8, 2024, Council Meeting agenda to consider naming the building for the outgoing mayor. It was specifically stated that the deliberation and vote on naming the building would be deferred to the Council's first open meeting in 2024. Contrary to the Complainant's allegations, there was no city business handled, the City did not name the building, and it was publicly communicated by Council Member

Coleman that the "meeting and handling" of that city business would occur at a future public meeting of the Council.

Law

Iowa Code § 21.2(2) defines a meeting as a gathering of the majority of the members of a governmental body during which deliberation or action is taken regarding a governmental matter. "Meetings shall not include a gathering of members of a governmental body for purely ministerial or social purposes when there is no discussion of policy or no intent to avoid the purposes of this chapter." *Id.*

Analysis

IPIB staff reviewed the issues alleged in this complaint. The event in question was a social reception honoring the outgoing mayor. Notice of the attendance of the Council was posted and provided to the media. During the reception, an announcement was made that a proposal would be brought to the Council at their next Council meeting regarding naming a building for the mayor. No further discussion or deliberation occurred. At the Council Meeting on January 8, 2024, the agenda included a vote on "Approving naming the building at 1200 Locust Street as the T.M. Franklin Cownie City Administration Building and waiving City Council Naming Policy." According to the minutes, the motion carried unanimously.

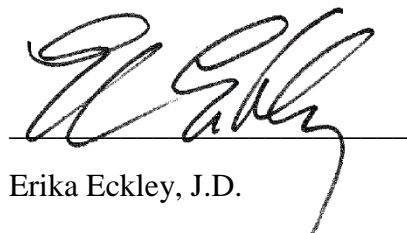
Conclusion

Iowa Code section 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and could have merit before the IPIB accepts a complaint. This complaint does not meet those requirements.

IT IS SO ORDERED: Formal complaint 23FC:0137 is dismissed as legally insufficient pursuant to Iowa Code section 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b). The Des Moines City Council did not violate any part of the open meetings code section.

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may "delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board." The IPIB will review this Order on February 15, 2023. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING:

This document was sent by electronic mail on the February 7, 2023, to:

Adam Callanan

Carol Moser, Deputy City Attorney, City of Des Moines

The Iowa Public Information Board

In re the Matter of: Mathew Boon, Complainant And Concerning: City of Fort Madison, Respondent	Case Number: 24FC:0007 Dismissal Order
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COMES NOW, Erika Eckley, Executive Director for the Iowa Public Information Board (IPIB), and enters this Dismissal Order:

On January 17, 2024, Matthew filed formal complaint 24FC:0007, alleging that City of Fort Madison violated Iowa Code chapter 22.

Facts

Mathew Boon alleges that he requested records on January 6, 2024, for the current roster for the "21 full-time officers" and "3 non-sworn positions" as stated on <https://www.fortmadisonpd.com/> including ranks and badge numbers of these 24 officers and those within the "non-sworn" positions. He also requested the names of any detectives registered with the Iowa Department of Public Safety. He stated he made the request electronically. He filed the complaint because the City stated that fees needed to be paid, but "the law allows a free and open examination of the records."

In response, the City, through its Police Chief, stated that Mr. Boon could either pay for the record or come to examine the document in person for free.

After several communications between the parties and IPIB staff, the City agreed to provide the document in an electronic form to Mr. Boon.

Applicable Law

"Every person shall have the right to examine and copy a public record." Iowa Code § 22.2(1).

Analysis

After this Complaint was filed, the City agreed to provide the record electronically to Mr. Boon.

Conclusion

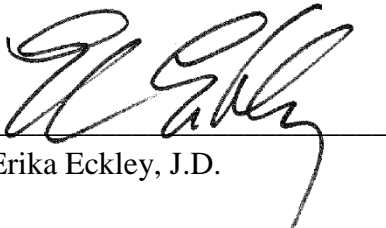
Iowa Code § 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. Following a review of the allegations on their face, it is found that this complaint does not meet those requirements.

The City has provided the records requested.

IT IS SO ORDERED: Formal complaint 24FC:0007 is dismissed as it involves an incident that has been resolved.

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may “delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board.” The IPIB will review this Order on February 15, 2024. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director



Erika Eckley, J.D.

CERTIFICATE OF MAILING

This document was sent on February 7, 2024, to:

Mathew Boon
Chief Mark Rohloff



Toresdahl, Brett <brett.toresdahl@iowa.gov>

2nd Response to Complaint #23FC:0135

Andrew Keller <kell1259@umn.edu>

Tue, Jan 23, 2024 at 7:14 PM

To: Karyl Bonjour <karyl_bonjour@webstercity.com>, IPIB@iowa.gov, "Toresdahl, Brett" <brett.toresdahl@iowa.gov>

Dear IPIB,

I have met with Ms Bonjour and received the requested documents free of charge. I make a brief caveat that I have not sat down and reviewed them in depth, but at first blush they seem complete. Please consider this complaint tentatively resolved.

Thank you,
Andrew Keller

[Quoted text hidden]



Toresdahl, Brett <brett.toresdahl@iowa.gov>

Iowa Public Information Board complaint 24FC:0012

dilholst <dilholst@netins.net>

Sun, Feb 11, 2024 at 7:44 PM

To: "Gookin, Eric" <Eric.Gookin@sos.iowa.gov>

Cc: "Toresdahl, Brett [IPIB]" <brett.toresdahl@iowa.gov>

Mr. Gookin and Mr. Toresdahl:

With supplying the Civix contract, I will consider this request and complaint closed since the statement of work has not been completed. I will open a new request for the SOW with your office, Mr. Gookin, in the near future.

Thank you,

Diane Holst

Sent from my iPad

On Feb 7, 2024, at 5:42 PM, Gookin, Eric <Eric.Gookin@sos.iowa.gov> wrote:

[Quoted text hidden]

<Civix-IASOS - MSA -Final 2023-12-14 - signed by SOS_Civix signed_12.15.23.pdf>

<Screenshot of Civix K delivery.png>

Bill Number	Summary	IPIB registration	Current Status	Upcoming Activity
HF2299	Revises chapter 22 to allow a government body to provide a public record in a comparable alternative rather than how specifically requested. Allows for a government body to direct a requester to their website if the documents are available there.	Undecided (monitoring)	Subcommittee recommends passage. Vote Total: 3-0.	Will go to State Government Committee
HSB 670	Eliminates requirement for ensuring gender balance in appointing requirements.	Undecided (monitoring)	Subcommittee recommends passage. Vote Total: 2-1.	Will go to State Government Committee
SSB 3107	Allows for publication on the body's website if no newspaper is in the municipality or county. Has a provision that if there is a dispute between a newspaper and a government body regarding timely publication, rather than a reduction of fees, the dispute comes to IPIB as a contested case.	Undecided (monitoring)	Subcommittee passed the bill.	Technology committee TBD
HF 2062	Increases penalties for chapter 21 infractions from \$100-500 to \$1000-5000 for participation in violations and for a knowing violation penalties increased from \$1000-2500 to \$10,000-\$25,000. Also adds a requirement for a member education course provided by the government body on chapters 21 and 22.	Undecided (monitoring)	Subcommittee: Siegrist, Bossman and Zabner. Recommends passage. Vote total 3-0.	will go to State Government Committee- did not take up on 2/8
HF 2309 (formerly HSB 531)	Makes a booking photo a confidential public record unless 1. the person is a fugitive; 2. the person is an imminent threat to a person or persons; 3. a judge orders the release; or 4. the person has been convicted or pled guilty to the offense for which they were arrested and photographed. Also defines booking photograph.	Undecided (monitoring)	Placed on House calendar	

Bill Number	Summary	IPIB registration	Current Status	Upcoming Activity
HF 333	Increases the timeframe for filing complaints with the IPIB from 60 to 90 days.	For	Passed the House in 2023.	No current activity
HF 350	Adds requirement that upon receipt of a records request that the request be promptly acknowledged, inform the requestor of an estimate of the reasonable costs and when the records may be available, and to notify the requestor of any delays	For	Passed the House in 2023. Attached to SF202.	No current activity
HF 409	Requires School Board meetings to provide at least 30 minutes for public comment at every regular and special meeting of the Board. Allows that the Board may reasonably and equally limit the individual speaker, but requires each individual get at least 2 minutes (unless the speaker engages in person attacks or threats against an individual, members of the Board; employees; or students). Public comment may close before the 30 minutes if there are no speakers or all speakers have had a chance to speak.	Undecided	Subcommittee: Gehlbach, Gaines and Henderson.	subcommittee meeting TBD
HF 497	Allows for governmental bodies of three members or less to attend a gathering for a political party or civic organization.	Undecided (monitoring)	Last year passed House and passed Senate State Government Committee	No current activity
SF 202	See HF350	For	Attached to HF350	

Board Dashboard

Dashboard for Board Meetings

As of Feb 9, 2024 12:23 PM-Viewing as Erika Eckley

Active Cases Report

52

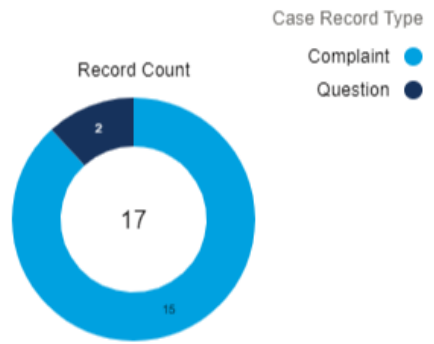
[View Report \(Active Cases Report\)](#)

Active Questions Report

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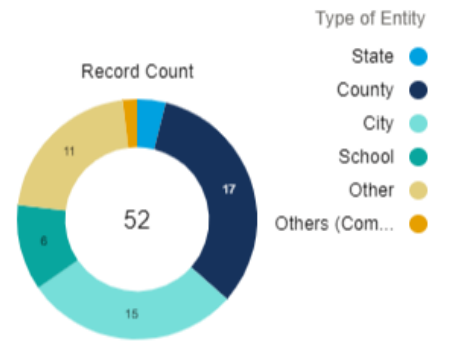
[View Report \(Active Questions Report\)](#)

New complaints &/or question last 30



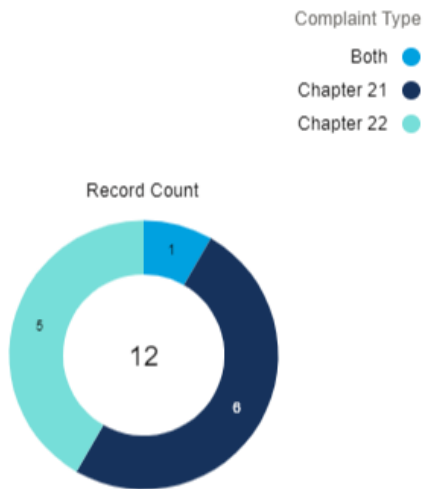
[View Report \(New complaints &/or question last 30 c](#)

Cases by Entity



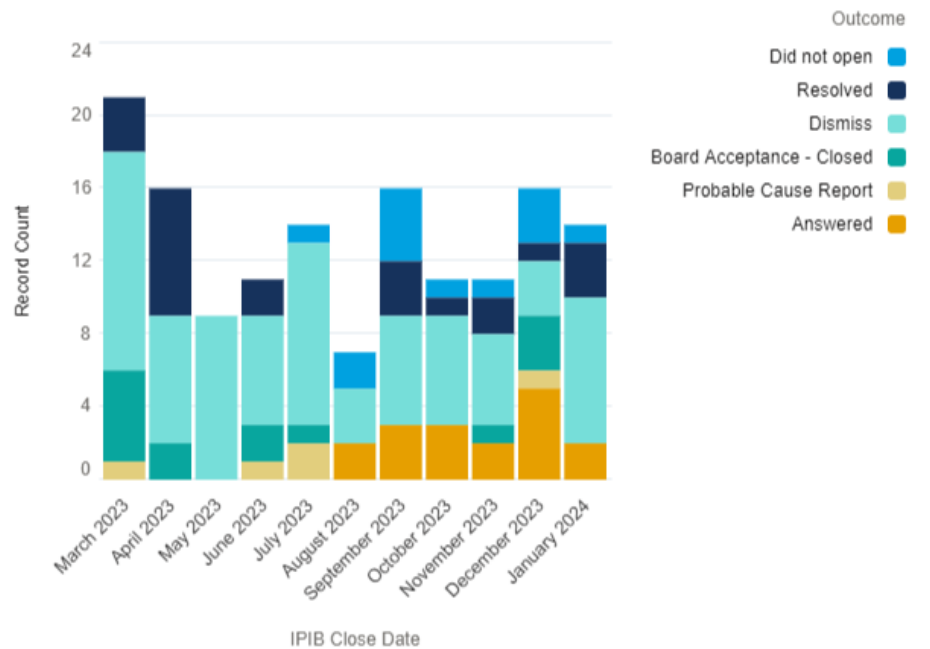
[View Report \(Cases by Entity\)](#)

Broad Type (Filed in Current



[View Report \(Broad Type \(Cases Filed in Current Ye](#)

Closed cases (past 12 months)



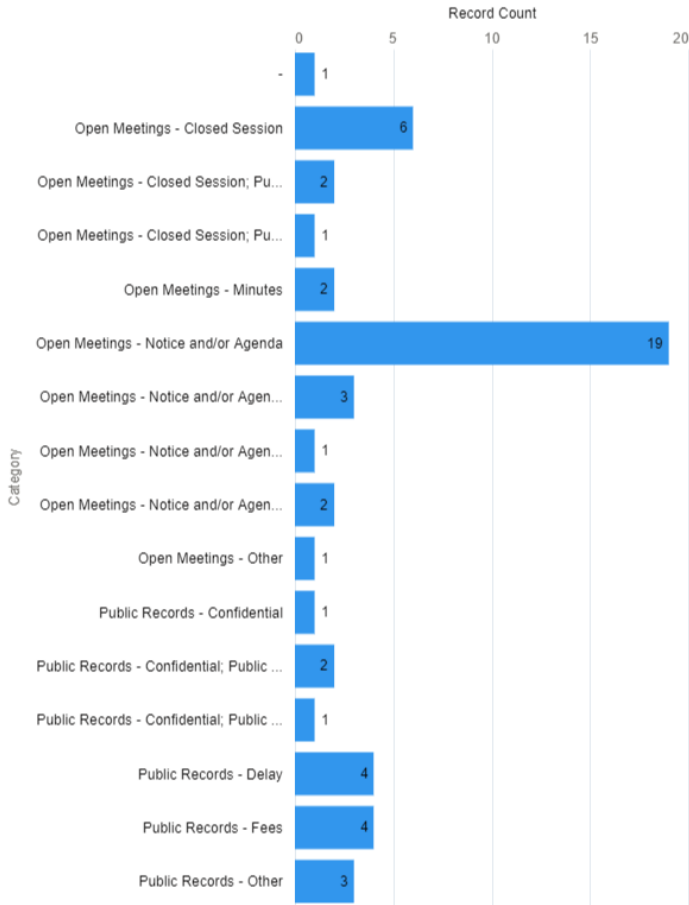
[View Report \(Closed cases \(past 12 months\)\)](#)

Cases by Type

As of Feb 9, 2024 12:25 PM Viewing as Erika Eckley

Cases by Type (Active)

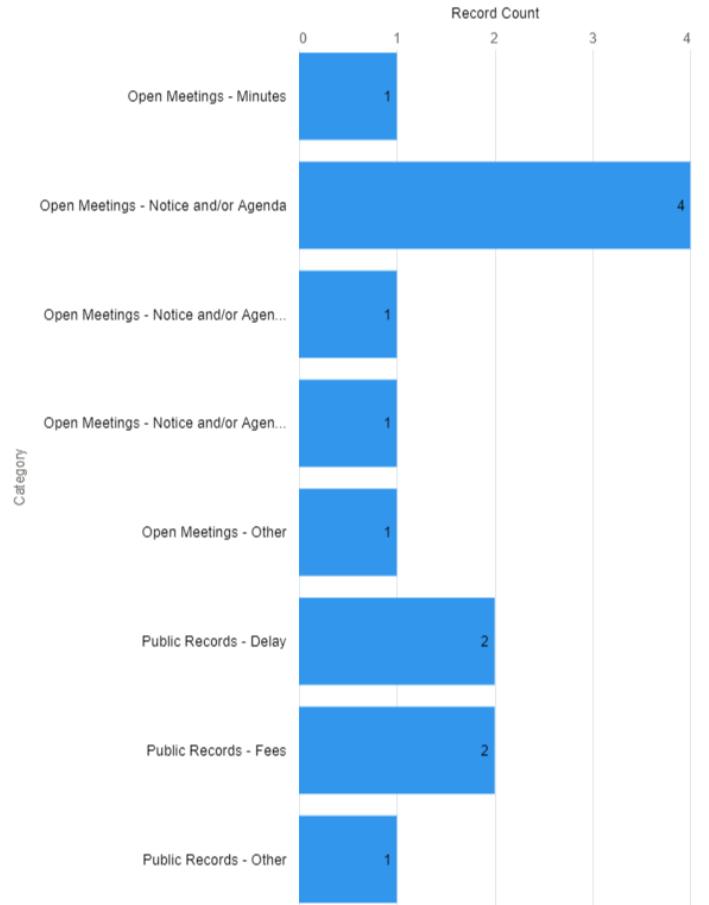
55



[View Report \(Cases by Type \(Active\)\)](#)

Cases by Type (Filed in Current Year)

55



[View Report \(Cases by Type \(Filed in Current Year\)\)](#)

Report ID: SCHED 6 DEPT/APPR

STATE OF IOWA

Page: 1 of 3

Source: I/3 Budget

FINANCIAL INFORMATION SCHEDULE BY APPROPRIATION

Run Date: 02/09/2024

Spec Dept: All Fund: All Unit Detail: All

Run Time: 11:00:46 AM

Department: All Appropriation: All Recap Unit: All

Special Department: 760SD **Public Information Board**
Department: 592 **Public Information Board**
Fund: 0001 **General Fund**
Appropriation: P22 **Iowa Public Information Board**

Object Class	Year to date	Revised Budget	Actuals
	Actuals	I/3 Financial	
	FY 2024	FY 2024	FY 2023

RESOURCES

Appropriations

05A	Appropriation	357,407	357,407	358,039
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Appropriations TOTAL:		357,407	357,407	358,039
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Receipts

234R	Gov Fund Type Transfers - Other Agencies			8,050
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Receipts TOTAL:				8,050
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Other Resources

04B	Balance Brought Forward (Approps)	13,543	13,543	11,374
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Other Resources TOTAL:		13,543	13,543	11,374
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TOTAL RESOURCES:		370,950	370,950	377,462
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DISPOSITION OF RESOURCES

Expenditures

101	Personal Services-Salaries	178,849	286,459	288,030
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202	Personal Travel In State	955	5,298	117
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301	Office Supplies	877	3,000	2,178
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309	Printing & Binding		500	1
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313	Postage	20	150	54
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401	Communications	1,735	5,000	3,352
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Report ID: SCHED 6 DEPT/APPR

STATE OF IOWA

Page: 2 of 3

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Appropriation: P22 **Iowa Public Information Board**

Object Class		Year to date	Revised Budget	Actuals
		Actuals	I/3 Financial	
		FY 2024	FY 2024	FY 2023
405	Professional & Scientific Services		9,000	8,050
406	Outside Services	975		325
414	Reimbursement to Other Agencies	6,435	17,000	12,424
416	ITS Reimbursements	13,301	22,000	33,965
418	IT Outside Services	702		1,826
434	Gov Fund Type Transfers - Other Agencies Services		9,000	
602	Other Expense & Obligations		13,543	55
Expenditures TOTAL:		203,849	370,950	350,377
Other Dispositions				
91B	Balance Carry Forward (Approps)			13,543
93R	Reversions			13,543
Other Dispositions TOTAL:				27,086
TOTAL DISPOSITION OF RESOURCES:		203,849	370,950	377,462

FTE

FTE Summary

FTE	FTE	3	3
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FTE Summary TOTAL: 3 3

TOTAL FTE: 3 3

Report ID: SCHED 6 DEPT/APPR

STATE OF IOWA

Page: 3 of 3

Source: I/3 Budget

FINANCIAL INFORMATION SCHEDULE BY APPROPRIATION

Run Date: 02/09/2024

Spec Dept: All Fund: All Unit Detail: All

Run Time: 11:00:46 AM

Department: All Appropriation: All Recap Unit: All

Special Department: 760SD **Public Information Board**
Department: 592 **Public Information Board**
Fund: 0001 **General Fund**
Appropriation: P22 **Iowa Public Information Board**

Object Class	Year to date	Revised Budget	Actuals
	Actuals	I/3 Financial	
	FY 2024	FY 2024	FY 2023
Appropriation P22 Net (Res-Disp):	167,101	(0)	
Appropriation P22 FTE:		3.00	2.59
Fund 0001 Net:	167,101	(0)	
Fund 0001 FTE:		3.00	2.59
Department 592 Net:	167,101	(0)	
Department 592 FTE:		3.00	2.59
Special Department 760SD Net:	167,101	(0)	
Special Department 760SD FTE:		3.00	2.59
Report Total Net:	167,101	(0)	
Report Total FTE:		3.00	2.59

**IOWA PUBLIC INFORMATION BOARD
Communications Committee**

MEMBERS

**Monica McHugh, Zwingle (Public Representative, 2022-2026)
Julie Pottorff, Des Moines (Public Representative, 2020-2024)
Jackie Schmillen, Urbandale (Media Representative, 2022-2026)**

STAFF

**Erica Eckley, Executive Director
Brett Toresdahl, Deputy Director**

Agenda

**Thursday, February 15, 2024, 1:30p.m.
IPIB Office Conference Room
Wallace Building
502 East 9th Street, Des Moines, IA**

Use the following link to watch the IPIB meeting live:

<https://youtube.com/@IowaPublicInformationBoard>

Note: If you wish to make public comment to the Committee, please send an email to IPIB@iowa.gov prior to the meeting.

1:30 PM – IPIB Communications Committee Meeting (or immediately following IPIB meeting)

- I. Call to Order / Introductions
- II. Approve Agenda
- III. Public Comment (3-minute limit per speaker)
- IV. What is the objective of the Communications Committee?
- V. Trainings: types, audiences
- VI. IPIB Website: suggested changes or updates
- VII. FAQ's: updates & reviews
- VIII. YouTube Channel: utilization
- IX. Adjourn